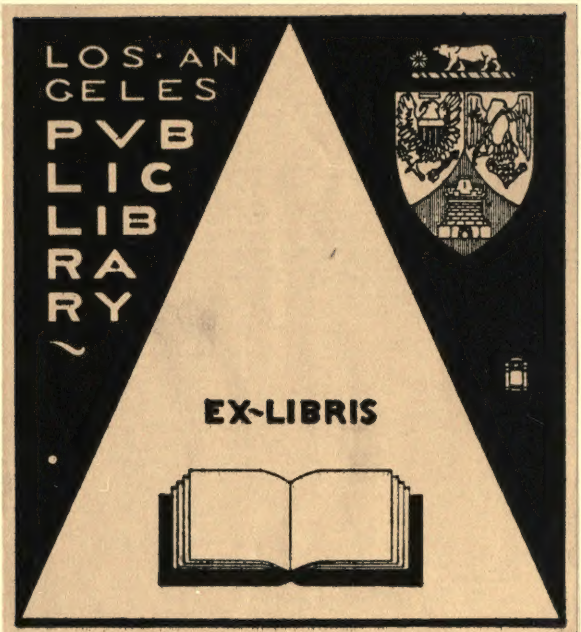

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STATE OF NEW YORK

MESSAGES FROM THE GOVERNORS

COMPRISING

Executive Communications to the Legislature and Other
Papers Relating to Legislation from the Organization
of the First Colonial Assembly in 1683 to
and Including the Year 1906

WITH NOTES

EDITED BY CHARLES Z. LINCOLN

PUBLISHED BY AUTHORITY OF THE STATE

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VOLUME IX

1892-1898

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PREFACE.

MAR 8 1910

This volume includes the administrations of Governors Flower, Morton and Black. During this period the Constitutional Convention of 1894 was held, and a new Constitution was approved at the general election in that year. Among other things it reduced the official term of the Governor from three years to two years, and provided that the Governor elected in 1894 should hold office only two years. Governor Flower was the last of the three-year Governors.

The new Constitution took effect on the 1st of January, 1895, and it contained numerous changes which required additional legislation. The legislation necessary to put the new Constitution into operation was an important feature of Governor Morton's administration. During Governor Black's administration important changes were made in the Civil Service Law, and a commission was created to investigate canal affairs, especially relating to the enlargement of the canals under the nine million dollar act of 1895. The war with Spain occurred in 1898, requiring legislation and large expenditures for the enlistment, equipment and compensation of New York troops which received special consideration at the extraordinary session in July of that year.

This volume covers legislation relating to the census of 1892, reapportionment of the Senate and Assembly, excise, statutory revision, Palisades, forest preserve, Greater New York, arms for the national guard, New York commerce investigation, metropolitan elections, and other important subjects.

CONTENTS OF VOLUME IX.

ROSWELL P. FLOWER, GOVERNOR. 1-535.

1892, January — 1.

Governor and Legislature in political accord, 1; enumeration and apportionment, 2; congressional reapportionment, 5; State finances, 7; sources of revenue, 9; economy in public expense, 10; Constitutional Convention, 13; education, 14; university extension, 17; executions by electricity, 21; World's Fair, 23; State prisons, 24; revision of statutes, 26; National Guard, municipal government, 28; State care of the insane, 31; canals, 32; electoral reform, 33; registration of electors, contested elections, 34; death of Chief Judge Ruger, 36; veto, Reformed Protestant Dutch Church of Cattsbane, correcting title, 37; veto, Sullivan county fish hatchery, 38; veto, Seneca county, transcribing certain records, communication relative to sale of corporate franchises, 39; veto, Southern tier fish hatchery, 43; veto, confidential communications, amending Code of Civil Procedure, 44; veto, practice on appeals, amending Code of Criminal Procedure, 45; veto, Elmira Law Library, 45; veto, gilded ware, amending Penal Code, 47; veto, Erie canal, constructing wall, Royalton, 48; veto, item in appropriation bill, Board of Claims, awards, 49; veto, Burhans claim, hearing by Board of Claims,50; veto, Cohoes, extending Schuyler street, 51; veto, Buffalo, amending charter, 51; veto, New York, amending Consolidation Act, 52; veto, Waterford, revision of charter, 54; veto, appropriation for Oak Orchard Creek canal feeder, 55; veto, Society for the Relief of Orphan and Destitute Children, Albany, amending charter, veto, Union Literary Society, Ellisburgh, amending charter, 56; veto, Supreme Council of the Catholic Mutual Benefit Association, amending charter, veto, Worcester Congregational Church cemetery, removing remains, veto, deposit of State funds, amending Revised Statutes, 57; veto, dredging Black Rock harbor, 58; veto, Erie canal bridge, Monroe avenue, Rochester, veto, York, legalizing certain assessments, 59; veto, Yonkers, election expenses, 61; veto, villages, collection of taxes, amending general law, veto, Saranac river improvement, 62; veto, Penn Yan, amending charter, 63; veto, Cohoes poll clerks and election inspectors, 64; veto, Bassler claim, hearing by Board of Claims, 65; veto, Milliete claim, hearing by Board of Claims, veto, Morgan claim, hearing by Board of

Claims, 66; veto, New York, amending Consolidation Act, 67; veto, relief and support of paupers, veto, items in appropriation bill, 68; veto, creating State printing department, 70; veto, Mount Morris, consolidating school district, 73; veto, State Aslyum for Insane Criminals, Matteawan, land for sewer, veto, New York Evening High School, 74; veto, Norwich recorder, veto, items in supply bill, 75; memorandums filed with bills before adjournment, 85; thirty-day bills, 102; omnibus veto, 147.

1892, April, Extraordinary Session — 154.

Legislature, reapportionment, 154

1893, January — 156.

Visiting public institutions, 156; State finances, 157; taxation, 158; Buffalo strike, 159; labor interests, 163; common schools, education, 166; improvement of canals, 167; improved motive power, 169; World's Fair, agricultural interests, 170; department of agriculture established, scientific work in agriculture, 175; registration in towns and villages, prisons and pardons, 180; prison manufactures, 181; Women's prison at Auburn, 182; coal combination, 183; Adirondack park, 184; Forest Commission, 187; uniformity of legislation, care of the insane, 188; propagation of fish, 191; oyster culture, 193; Constitutional Convention, 194; use of money in elections, 196; candidate's statement of expenses, 197; good roads, 198; quarantine, purchase of Fire island, 204; State Board of Health, 206; defective engrossed bills, 209; legislative counsel, 210; Old Orchard Shoal lighthouse, veto, Kings county, Brooklyn, legalizing acts relative to memorial arch and discovery of America, 211; use of adulterated dairy products in State institutions, 214; restraining coal combinations, veto, Oswego canal bridge, Phœnix, veto, New York Evening High School, 216; vetoes, Onondaga Historical Association, Southside Sportsmen Club of Long Island, amending charter, veto, Rochester, amending charter, 217; veto, amending Executive Law, communication relative to forest preservation, 218; veto, Watkins creek fish hatchery, veto, White Plains Memorial Hall, 221; veto, Hendrick Hudson statue, 222; memorandums filed with bills before adjournment, 223; thirty-day bills, 230.

1894, January — 296.

State free from debt, 296; forest preservation, 298; Greater New York, 300; canals, 301; promoting usefulness of canals, 302; road improvement, changes in election laws, 308; bi-partisan election boards, 309;

civil service, State care of the insane, 311; New York and the World's Fair, international expositions, 317; agricultural interests, 318; topographic survey, honors to Union soldiers, 323; labor interests, 325; industrial classification of inhabitants, 326; public health, 327; common schools, State prisons, 328; Elmira Reformatory indeterminate sentences, 320; reformatory management, 331; prevention of waste by fire, 332; Banking Law amendments, 333; fish propagation, 334; National Guard and Naval Militia, 336; municipal government, 337; Antietam National Cemetery, 340; veto, Troy, amending charter, 343; veto, legalizing acts of Jefferson Sherman, justice of the peace, veto, Executive Law, county clerk's fees, notaries, 346; veto, Brooklyn, amending charter, 347; vetoes, Green Point First Baptist Church, Rochester German Social Turn-Verein, changing names, veto, Tonawanda Indian reservation, repair of bridges, 348; veto, Cullum legacy, releasing inheritance tax, 349; veto, villages, amending general act of 1870, 350; veto, Hornellsville, cemetery, removal of remains, 352; veto, civil service, amending general acts, veto, Putnam claim, hearing by Board of Claims, 353; veto, Agricultural Law, compensation of certain agents, 354; veto, school buildings, fire-escapes, 355; veto, Buffalo, improving Main street road, veto, Davenport Institution for Female Orphan Children, changing name, 356; veto, United States land grant, amending act, communication relative to sanitary condition of capitol, 357; veto, Oswego, amending charter, 360; veto, public instruction, amending general act, veto, Code of Civil Procedure, taxpayer's action, veto, Brooklyn, amending charter, 364; veto, legalizing acts of Thomas W. Cantwell, notary public, veto, school commissioners districts, regulated in certain counties, 365; veto, Banking Law, amending general act, 366; veto, Public Health Law, 367; veto, legalizing acts of Alanson J. Prime, commissioner of deeds, 368; veto, legalizing acts of Charles F. Curtis, justice of the peace, veto, Suffolk county, salary of county judge, veto, Linus Jones, Peck and Company, claim, hearing by Board of Claims, 369; veto, Sullivan escheat bill, 370; veto, Port Jervis, public building, veto, town hall, amending general act, 371; veto, Buffalo, redemption of bond, veto, Seneca Lake ferry, veto, County Law, powers of boards of supervisors, 372; veto, Troy Female Seminary, amending act, veto, New York, Kings and Queens counties, practicing attorneys, 373; veto, Amsterdam, legalizing assessments, 374; veto, justices of the peace, fees, 375; veto, executors and trustees, powers, veto, Public Health Law, amending act, 376; urging passage of Adirondack park bill, 377; veto, incorporating Metropolis Finance Company of New York, 379; veto, State

Nautical School, 380; veto, College of the City of New York, procuring new grounds and buildings, 381; veto, Dickson escheat bill, veto, deposits in waters surrounding New York, repeal, 384; renewing certain suggestions in annual message, 387; veto, exceptions on appeal, 390; veto, town meetings, amending Town Law, 392; veto, New York, amending Consolidation Act, veto, Dean relief bill, renewing suggestion as to Election Law, 393; veto, Sons of Veterans, parades and drills, 398; veto, Richmond county, collection of taxes, 399; veto, division fences, amending Town Law, veto, items in supply bill, 401; veto, Smith escheat bill, veto, appropriation bill, 403; memorandums filed with bills before adjournment, 409; thirty-day bills, 413; omnibus veto, 534; death of Governor Flower, 534.

LEVI P. MORTON, GOVERNOR. 536–737.

1895, January — 536.

Political change in State government, new legislation required by new Constitution, 536; executive power and duty, 537; taxation and finances, 538; State's financial needs, 540; public economy, 542; new capitol, 544; constitutional amendments, judiciary, 545; special city laws, pool selling and bookmaking, 547; civil service, 548; canal improvement, free common schools, employment of prisoners, 549; salt springs, 550; drainage of agricultural lands, 550, 558; charitable institutions, 550; reform legislation for New York city, 551; Greater New York, 552; election laws, 553; canals, 556; agricultural drainage, roads and highways, 558; convict labor, 559; civil service laws, 560; bank department, 561; savings banks, public instruction, 563; insurance department, 565; dependent insane, 566; maintenance of State charities, State forestry, 568; State troops, 569; veto, Ogdensburg armory, 571; veto, Whitehall armory, dedication of Chickamauga and Chattanooga National Military park, 575; New York inferior criminal courts, 578; Cotton States and International Exposition, 581; veto, Kings County Charities Commission, 583; veto, bridges, amending County Law, 587; memorandums filed with bills before adjournment, 589; thirty-day bills, 604; omnibus veto, 622; arms for the National Guard, general note, 634.

1896, January — 643.

First Legislature under new Constitution, 644; New York's primacy, 645; Venezuelan question, State finances, 646; care of the insane, 649; prison labor, 653; insane criminals and capital punishment. 656; condition of prisons, 658; canals, 659; public education, 661;

civil service, 663; Ballot Law, 664; excise question, 665; road improvement, 667; State forest and game preserve, 668; preserving Palisades, 670; Mexican Exposition, 671; Atlanta Exposition, 672; completion of capitol, 673; Greater New York, extravagance in public printing, 674; legislative procedure, 676; revision of statutes, 679; economy in appropriations, 682; New York city school system, 686; board of education established, 687; Centennial of Establishment of State Capital at Albany, 688; memorandums filed with bills before adjournment, 691; thirty-day bills, 705; omnibus veto, 717; Palisades, general note, 755.

FRANK S. BLACK, GOVERNOR. 738-886.

1897, January — 738.

Financial condition, 738; prisons, 739; banking, 740; insurance, labor, 741; National Guard, railroads, 743; agriculture, 744; public highways, capitol, 745; canals, 746; insane, 747; public schools, Excise Law, 748; civil service, 749; forests, 750; Greater New York, 752; biennial sessions, 753; veto, removal of canal bridge at Sandy Hill, 755; thirty-day bills, 756; omnibus, veto, 776.

1898, January — 820.

Finances, 820; banking, insurance, 821; railroads, canals, 822; excise, agriculture, 823; commerce, 824; commission to investigate commerce of New York, 824; capitol, 826; National Guard, schools, 827; State university, 828; charities, 829; insane, 830; prisons, 831; labor, 832; forests, 834; civil service, 838; roads, 844; taxation, 845; public expenditures, 846; biennial sessions, 847; short and active session, 848; Canal Investigating Commission, 849; war with Spain, 852; thirty-day bills, 854; omnibus veto, 857.

1898, July, Extraordinary Session — 876.

New York's expenses in war with Spain, enabling absent soldiers to vote, security of elective franchise, 877; appropriation for extra session, 884; metropolitan elections district, bi-partisan election boards, 885.

Roswell P Flower

MESSAGES FROM THE GOVERNOR.

1892. JANUARY 5. LEGISLATURE, ONE HUNDRED AND FIFTEENTH SESSION.

ROSWELL P. FLOWER, Governor.

ANNUAL MESSAGE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,
ALBANY, *January* 5, 1892.

TO THE LEGISLATURE.—A sense of diffidence must always animate the official communications of the Executive to the law-making body. His office is indeed a co-ordinate branch of the government, and is invested by the Constitution with powers equal or superior in scope to those of the Legislature,[a] yet his recommendations and suggestions, however closely they may be made to reflect the sentiments and wishes of a majority of the people, are but the utterances of a single officer addressed to a vastly greater number of the people's representatives. Doubly sensitive must the Executive be, therefore, when for the first time in his official capacity, and almost as the first of his official acts, he complies with the constitutional obligation to communicate to the Legislature "the condition of the State, and recommend such matters to them as he shall judge expedient."

It is a reason for great satisfaction and encouragement, however, that in my discharge of this first important duty I am able to address my suggestions to a Legislature in political accord with the Executive. For the first time in eight years both branches of the Legislature and the Executive represent the same political ideas and a majority of the popular vote. This fact gives assurance that desired legislation, long delayed by reason of conflict between Legislature and Executive, may be speedily and wisely enacted, and that Legislature and Executive may work in harmony for the best interests of the people.

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[a] Const. 1846, art. 4, §§ 4, 5, 9.

I congratulate you also that the new year which opens coincidently with the convening of your honorable body, finds the State in prosperous condition and the people happy and contented. An overruling Providence has been even more bountiful than usual in His dispensation of blessings during the year just ended. The products of agriculture have been large, and industry and commerce have been active and have yielded good returns. The State is practically out of debt, State taxes are low, and the government has been honestly and well administered. Let it be our joint endeavor to maintain these conditions of prosperity, so far as may be in our power — to legislate wisely and impartially, and to give the people those measures of relief which they properly desire and to which they are justly entitled.

ENUMERATION AND APPORTIONMENT.

The paramount duty before the Legislature is to provide for an enumeration of the inhabitants of the State, preparatory to a reapportionment of Senate and Assembly districts.[1]

If there was needed heretofore any direct proof of the injustice of the present legislative apportionment, it is now furnished by the returns of the Federal census of 1890. Defective as that enumeration was, especially in the city of New York, it shows an increase of population in the State since 1875 of nearly 1,300,000 inhabitants, or twenty-seven per cent. Yet the same apportionment now exists for the 5,997,853 inhabitants of the State, as was established in 1879 for the 4,698,958 persons enumerated in the census of 1875. If the apportionment based upon that census was a fair one, it is certainly a very antiquated and unfair ratio of representation now when applied to the present population.

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[1] An enumeration act, chapter 5, was passed on the 20th of January, under which an enumeration was taken in the month of February. As to apportionment, see note 31, *post* p. 155.

There have been great changes of population in the State since 1875. In a third of the counties there has been an actual decrease in the number of inhabitants. This is true of several counties which are now allotted more than one member of Assembly each, namely, Oswego, St. Lawrence, Ulster, Washington and Wayne. In other counties, and especially in those which contain the largest cities of the State, the increase in population is very noticeable. In Erie county it is sixty-three per cent; in Kings it is sixty-four and a half per cent; in Queens it is fifty-two per cent; in New York, forty-five per cent; in Westchester, forty-one per cent; and in Monroe, forty per cent. When it is considered that the total increase in the State is twenty-seven per cent, these figures show that there has been a radical readjustment of population since 1875, and that the apportionment garment which may have been a very good fit then is now very much of a misfit.

The denial of proper representation is a discrimination against these growing sections of the State. It tends to dwarf their prosperity and to shackle their liberties by narrow and illiberal legislation. It gives undue legislative influence to communities where progress seems stayed and population is diminishing. It retards municipal reform and encourages meddlesome interference with the affairs of our large cities. It permits taxation without representation. It has authorized a minority of the people to make laws not desired by the popular majority, and it has continually nullified the expression of public sentiment pronounced emphatically at the polls in each election of State officers. A popular majority of nearly 50,000 this year is barely able to control the Legislature by reason of the inequitable apportionment.

In Kings county 69,000 people on the average are represented by one member of Assembly, while in Jefferson county the same number of persons are represented by two members. In New York 190,000 people elect three representatives to the Assembly, while in St. Lawrence county 85,000 people have the same voice in legislative action. The 45,000 people in Washington county have two members of Assembly, while the 322,000 in Erie county have but five; that is, the ratio in Washington county is 1 to 22,000, while in Erie it is 1 to 64,000. Cattaraugus county, with 60,000 inhabitants, has two members of Assembly, while Monroe county with three times as many inhabitants has only one additional Assemblyman. It was estimated last year by the special committee on enumeration and apportionment, appointed by the Assembly, that if the 128 members of Assembly were apportioned among the counties on the basis of the recent Federal enumeration, Erie county would have seven members instead of five, Monroe would have four instead of three, Kings would have eighteen instead of twelve and New York would have thirty-three instead of twenty-four. If these figures be accurate the injustice of depriving these counties of their rightful representation can not be disputed.

The mere statement of this evil would seem to be sufficient for its immediate correction. So far as I am aware, the present apportionment is nowhere defended from the charge of unfairness. The only defense which has been offered for the failure to take the preliminary step for its correction, viz., the passage of an enumeration bill, was that offered in the minority report of the Assembly committee last year, which was to the effect that no enumeration bill having been enacted in 1885, the Legislature is therefore absolved from further responsibility for the performance of this obligation until 1895. Such a construction, however, is too preposterous to argue. The enactment of the present legislative apportionment and the present congressional apportionment were both violations of the Constitution[b] and therefore void if that construction is the true one; for the former was not enacted till 1879, four years after the enumeration was taken, and the latter not till 1883, three years after the Federal enumeration. It is respectfully suggested that if the Legislature were still disposed to maintain this strained construction of the constitutional obligation, it must in consistency regard the apportionments of 1879 and 1883 as void and the election of its own members without authority of law.

So untenable is such a position that one is forced to the conclusion that the refusal to provide for rightful representation has been based upon the unworthy motive of seeking to retain partisan advantage. The political complexion of the present Legislature, however, removes the possibility of such a motive as an obstacle, and, I hope, insures the prompt passage of an enumeration bill, preparatory to a reapportionment of Senate and Assembly districts. [See note 1.]

CONGRESSIONAL REAPPORTIONMENT.

Equally incumbent upon the Legislature is the duty to reapportion the congressional districts of the State. Congress having apportioned representatives among the States in proportion to the number of their inhabitants as shown by the Federal census of 1890, it devolves upon the Legislature of each State to so arrange the districts within its borders that each shall contain "as nearly as practicable an equal number of inhabitants." There is no increase in the number of representatives allotted to the State of New York. Notwithstanding an increase of nearly a million in the population since 1880, our State has only the same representation in Congress and in the electoral college that she was given ten years ago. The injustice of that action

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[b] Const. 1846, art. 3, §§ 4, 5.

I shall not discuss here, but permit me to suggest that it should not be aggravated by the refusal now on the part of the Legislature to equalize the population in the thirty-four districts. As they stand now they are grossly unequal in population. One contains 125,000 inhabitants, another 255,000 — a difference of 130,000. With a total population of 5,997,853 in the State, each district ought to contain about 176,000 inhabitants. The following table shows how wide they are of that figure:

District.	Population
First	242,000
Second	219,600
Third	197,000
Fourth	174,200
Fifth	216,800
Sixth	Not readily accessible owing to fact that United States census is published by wards, not by Assembly districts in New York city.
Seventh	
Eighth	
Ninth	
Tenth	
Eleventh	
Twelfth	
Thirteenth	
Fourteenth	
Fifteenth	163,900
Sixteenth	138,700
Seventeenth	163,900
Eighteenth	170,100
Nineteenth	164,000
Twentieth	175,200
Twenty-first	145,300
Twenty-second	153,800
Twenty-third	152,700
Twenty-fourth	125,500
Twenty-fifth	174,800
Twenty-sixth	173,300

District.	Population.
Twenty-seventh	186,800
Twenty-eighth	126,000
Twenty-ninth	150,800
Thirtieth	189,000
Thirty-first	132,000
Thirty-second	255,000
Thirty-third	129,000
Thirty-fourth	179,200

Nine of the present districts do not come within 25,000 of the proper ratio, and two do not come within 50,000. Eighteen are more than 10,000 out of the way, and not over five of the twenty-five districts here given are within 5,000 of the ratio.

These figures show a broad field for equalization. Equal districts are desirable as offering the most actual representation, and the maintenance of New York's influence in Congress depends largely upon how closely her congressmen represent the sentiments of her people.

Moreover if the State is not redistricted by the present Legislature the existing districts must continue to send representatives until at least the beginning of the Fifty-fourth Congress in 1895, for the next general election of congressmen after next November is in 1894. The necessity is greater, therefore, for the immediate action of the Legislature, for the increasing population only increases the inequality of the present districts, and if no reapportionment is made this year the present districts will be grotesque in their demarkations from the true ratio long before 1895.[2]

STATE FINANCES.

The State debt has been reduced during the past fiscal year by the payment of $100,000 Niagara Reservation bonds, and $1,936,650 canal debt.

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[2] By chapter 295, passed April 13, the State was divided into 34 congressional districts.

On the 30th of September, 1891, the total funded debt was $2,927,654.87 as follows:

General Fund, Indian annuities..........	$122,694 87
Canal debt............................	2,404,960 00
Niagara Reservation bonds..............	400,000 00
	$2,927,654 87
Aggregate Sinking Fund.................	1,913,030 99
Total debt unprovided for, not yet due.	$1,014,623 88

This debt of $1,014,623.88 unprovided for is made up as follows:

Canal.................................	$491,929 01
Niagara Reservation..................	400,000 00
General Fund, Indian annuities..........	122,694 87

Part of the canal debt matures on October 1 next and the remainder on October 1, 1893. The balance of $491,929.01 now unprovided for will not have to be paid by tax, the Comptroller estimates, as there is expected to be a surplus in the canal fund revenue to meet it. If that prediction be well founded the State has levied its last tax for the payment of the canal debt.

The Niagara Park debt matures at the rate of $100,000 each year, but its bonds are held by the State and can be paid at any time from the surplus now in the treasury if the Legislature so direct. They draw interest at the rate of two and one-half per cent per annum.

The principal of the General Fund debt for Indian annuities, $122,694.87, is an imaginary indebtedness and does not actually exist, the interest on about that sum being annually appropriated by the Legislature as annuities to the Indians.

With this explanation, therefore, the State debt appears to be practically wiped out.

This is a particularly gratifying showing and very creditable to the management of the State's finances. It could not have been accomplished without fidelity to public interests, honesty, and the prudent handling of public funds. Ten years ago the State debt was upwards of $9,000,000.

SOURCES OF REVENUE.

The larger part of the State's revenue still comes from direct taxation of personal and real property; yet the rate of tax for the current fiscal year is the lowest since 1855, being one and three-eighths mills, of which one mill is for schools and three-eighths of a mill for canal debt and maintenance. Upon the present assessed valuation this tax will yield $5,196,666.40.

There is no direct tax this year for the general expenses of government — sufficient income for this purpose being expected from the indirect sources of revenue.

These indirect tax laws yielded the following sums during the last fiscal year:

From notaries' fees	$22,705 50
From the pool tax	30,435 81
From the corporation tax	1,350,338 53
From the collateral inheritance tax	890,267 54
From the special tax on organization of corporations	185,536 58

The receipts from the last two tax laws were somewhat less than for the previous year. The succession tax imposed by the last Legislature is expected to increase largely the indirect revenues.

If it continues to be the policy of the State to widen the field of indirect taxation, the time is close at hand when, with rigid economy in appropriation, all the expenses of the State may be met without the imposition of any general

State tax. Indirect tax laws, however, should be based upon broad principles, and should be carefully framed so as not to unnecessarily or unwisely hamper individual or corporate enterprise. Radical legislation in that direction may prove a public injury rather than a public benefit. Indirect taxation moreover is a source of danger, for when taxes are least felt the people's representatives are more generous with public money and are inclined toward extravagance in appropriation.

One method of increasing the indirect revenues of the State, namely, that of taxing the bonded indebtedness of corporations, has been repeatedly suggested for the consideration of the Legislature by the Comptroller, and by my predecessor, and I submit it again to your attention. It is estimated that a moderate tax of this nature upon each per centum of interest paid would yield an annual revenue of $1,000,000 to the treasury. A bill based upon this suggestion passed the Assembly last year, but failed in the Senate.

The criticism has been frequently made that part of the recent corporate legislation of our State has been so harsh that corporations are being organized under the laws of New Jersey which, under less severe requirements, would organize under our laws. What real basis such criticism has, I do not know. Our corporation laws should be strict enough for the protection of the public, but they should not tend to discourage the investment of money in worthy enterprises and industries within our borders. I suggest that the Legislature authorize a joint committee of its members to investigate this subject, and, if possible, to procure uniformity of legislation bearing upon it in neighboring States.

ECONOMY IN THE PUBLIC EXPENSE.

In these times when Federal and local taxation bears heavily upon the people, the Legislature should avoid unnecessary or excessive appropriations of public money and demand the strictest economy consistent with good administration in the various departments and bureaus of the public service. The growth of the State necessarily increases the cost of its government, but I question whether the cost has not been increasing of late years at a much more rapid rate than the growth of the State would justify. At my request I have been furnished by the Comptroller with a statement of the permanent commissions and bureaus which have been established by the Legislature since 1879, together with the annual cost of their maintenance. The figures are very suggestive, for they indicate a very remarkable extension of governmental power and jurisdiction, and an equally remarkable increase in public expenditures. From the statistics furnished me I present for your consideration the following table of new permanent commissions, offices and bureaus established since 1879, the year of their establishment, and the expenditures on their account during the first year of their establishment and during the fiscal year recently ended:

OFFICE.	When established.	Cost for first full year.	Cost in 1891.
Game and Fish Protectors	1880	$5,536 82	$16,409 04
Board of Health	1880	11,700 77	28,832 22
Agricultural Experiment Station	1881	20,000 00	40,000 00
Bureau of Labor Statistics	1883	7,090 20	35,506 32
Civil Service Commission	1883	14,331 41	15,875 15
Public Buildings	1883	124,774 72	166,850 29
Niagara Reservation	1883	3,103 44	25,240 62
Railroad Commission	1883	66,225 37	67,606 66
Board of Claims	1884	31,958 15	24,116 78
Dairy Commission	1884	41,543 37	91,842 58
Forest Commission	1884	2,954 22	58,478 55
Board of Arbitration	1886	14,552 83	15,093 91
Factory Inspector	1886	9,400 75	30.053 80
Oyster Protector	1886	1,443 24	1,662 34
Electrical Subway Commission	1888	71,851 57	33,393 18
Weather Bureau	1889	3,935 48	3,957 49
Commission in Lunacy	1889	16,146 85	20,895 33
Farmers' Institute	1889	8,374 11	11,899 15
Court of Appeals, 2d Division	1889	97,200 00	96,520 00
Board of Port Wardens	1891	....	1,475 30
State Care of Insane	1891	....	76,619 56

This table includes some commissions whose expenses are not paid by the State, and some which have been created to take the place of former offices or boards, but it indicates with sufficient emphasis the steady widening of governmental jurisdiction and the steady increase of cost to the public. The yearly increase is shown by the following table:

1880	$3,577 27
1881	18,835 40
1882	67,444 00
1883	128,568 78
1884	306,942 61
1885	376,247 92
1886	420,210 59
1887	480,185 17
1888	586,347 23
1889	688,995 30
1890	740,442 45
1891	842,328 27
Total	$4,640,124 99

This showing ought to arrest the careful attention of the Legislature. Undoubtedly, a large part of this legislation has been wise and the commissions or bureaus created have accomplished many beneficial results, but some of them, I fear, have failed to justify the expenditure on their behalf and the tendency in nearly all of them has been toward constantly increasing expenditures.

The closest scrutiny should be applied to every demand for the creation of any additional office, and it should not receive legislative sanction until its need is established beyond question. Useless offices should be abolished, and in all, close economy should be encouraged. Lavish use of public money is a dangerous foe to public morals and to official administration. The affairs of the government should be managed with the same honesty, economy and zeal as characterize the management of private business.

A CONSTITUTIONAL CONVENTION.

In 1886 the people of the State voted emphatically for a convention to revise the Constitution. The Legislature has yet failed to provide for such a convention. I am not aware that public opinion has changed with reference to the desirability of a revision of the Constitution, and I respectfully commend the subject to the further consideration of the Legislature. Efforts are continually being made in the Legislature to submit proposed amendments to the people, and while that method of constitutional revision has the merit of conservatism, it is believed to be a patchwork method not desired by the people and not yielding the best results. A convention composed of able men and thoroughly representative would undoubtedly better subserve the public interests and present for approval a more comprehensive and practical scheme of amendments. The disinclination of the Legislature to indorse the revision of the judiciary article recently proposed by the Constitutional Commission of 1890 would seem to make a constitutional convention more necessary than ever, and I trust the Legislature at its present session will make the proper provision for one.[3]

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[3] A constitutional convention was provided for by chapter 398, approved April 30. It provided for a special election to be held on the second Tuesday of February, 1893, for the purpose of choosing 160 delegates, 128 by assembly districts, one from each, and 32 on a general ticket, the 16 receiving the highest number of votes to be declared elected, and the 16 receiving the next highest number of votes were to be designated or appointed by the State Board of Canvassers. In addition to the 160 so to be elected, the act provided for the appointment of eight additional delegates by the Governor, five representatives of labor organizations, and three representatives of the prohibition party, making a convention of 168 members. The convention was required to meet on the second Tuesday of May, 1893.

EDUCATION AND THE STATE.

Reports received by the Superintendent of Public Instruction indicate that the number of children in the State of school age (*i. e.,* between 5 and 21 years) in 1891 was 1,821,773. The number of children attending the common schools in the same year was 1,054,044. More than 767,000 children of school age therefore were either not in school at all, or received instruction elsewhere than at the public schools. The proportion of public school children in 1891 consequently was about fifty-seven per cent of the total number between the ages of 5 and 21. The total cost of supplying this education to somewhat more than half the children of school age in the State was $20,269,118.29. The greater part of this amount was raised by State and local taxation.

Considered with other statistics these figures suggest some serious reflections. In 1851, forty years ago, seventy-five per cent of the entire school population attended the public schools. During those forty years the State has done much to improve and strengthen its common schools, to increase their efficiency and to compel attendance, yet during all that time there has been a steady decrease of attendance in proportion to the school population, and nearly twenty per cent fewer children, proportionately, attend the public schools now than attended them forty years ago. In the same interval the expense has increased from $1,884,826 to $20,269,118. For each pupil who at-

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This act was amended in 1893, by chapter 8, which provided for a convention of 175 members. Delegates to the convention were to be chosen at the general election in November, 1893. The plan of representation was changed by providing for five delegates from each of the 32 senate districts, making 160, and 15 delegates were to be chosen on a general ticket, but there was no provision for minority representation. The provision in the first act authorizing the Governor to appoint delegates was omitted. The convention was required to meet on the second Tuesday of May, 1894.

tended the public schools any part of the year in 1851 the average cost was $2.26; in 1891 it was $19.22 — the increase being 750 per cent.

If these figures are accurate, and they are based upon official statements and reports, they are startlingly suggestive. If true they mean retrograding influence and greatly increasing extravagance in management. Much of the increased cost per capita is undoubtedly explained by the erection of new school buildings, possessing greater facilities, better accommodations and more attractive surroundings. But the surprising thing is that this sort of expenditure has not increased the proportion of children who avail themselves of these privileges, but has been accompanied by an actual diminution. Should the same ratio of decrease in numbers and the same ratio of increase in expense be maintained, the State in a few years will be actually taxing its citizens many millions of dollars each year — more than is needed now for all other purposes of government — to supply an education to a minority of its children.

This is neither democratic nor right. The State must, for its own protection and interests, see that the opportunities for a common school education are offered to its children, but it will not be justified in raising large sums of money by taxation for this purpose without accomplishing a corresponding amount of good. If there is waste in the present lavish expenditure it should be discovered and checked. If the present compulsory education law is not effective, and the evidence is clear that it is not, it should be strengthened by wise amendment. Certainly the State can not afford to permit thousands of its children to grow up in ignorance, only to increase that population which crowds our jails, our reformatories and our poor-houses, and menaces the integrity of our public service and our institutions with the weapon of an unintelligent ballot.

No one believes more thoroughly in our common school system than do I. It is the great hopper into which the untrained juvenile minds of Irish, English, Italian, German, Swedish, Bohemian or American parentage, with their hereditary ideas and tendencies, are tumbled together and shaken up to form the substantial qualification of the American citizen. It is to the American ideas implanted in our youth in the common schools that our country owes her prosperity in the past, and must look for the preservation of her institutions in the future. Every school-house may be made a stronghold of defense against the spread of socialistic and un-American ideas. No more worthy task therefore can be undertaken by the Legislature than to strengthen and bulwark our common schools and make them centers of widening, rather than diminishing influence. It will first be necessary, however, to ascertain the causes of the present unwelcome tendencies which statistical comparisons demonstrate. It may be found that much of the proportionate falling off in general attendance (aside from that which is explained by the increase of private schools), and certainly the increase in expenditure, arise from the modern tendency to so enlarge the curriculum of the public schools that they attempt too much and involve the State beyond its proper measure of responsibility. Certainly advocates of higher education at State expense can expect little sympathy from lawmakers, when the State, even with liberal appropriations, seems unable to compel merely rudimentary instruction and thousands of children are growing up without any education whatsoever.[4]

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[4] The principal statute relating to common schools passed at this session was chapter 573, approved May 14, which provided for reorganization of school libraries. Two years later, 1894, a consolidated school law was passed, chapter 556, and also a compulsory education law, chapter 671.

UNIVERSITY EXTENSION.

Within the past two years the movement known as "University Extension," has assumed considerable importance and great popularity in this country. Its nature I understand to be the bringing of means of culture and higher education within the reach of persons who are unable to get a collegiate or university education; or, as it is more authoritatively described by one of its prominent supporters, "the purpose of the university extension movement is to provide a means of higher education for persons of all classes and of both sexes engaged in the regular occupations of life." Its methods are by lectures, class exercises and examinations, conducted in various "centers" under the supervision of a central head.

The movement has caused great enthusiasm in England and in this country, and seems to have accomplished much good in stimulating intellectual tastes among the people. It has received the cordial support of most leading educators, and the generous encouragement of press and pulpit. While those who expect it when fully developed to fill the place of actual training in colleges and universities are quite likely to be disappointed, there is every reason for believing that it will raise the intellectual standard of the people, and diffuse more broadly the benefits of higher education. With such purposes and aims, every good citizen must be in cordial sympathy.

Heretofore, however, university extension efforts have been carried on under the supervision of some established university, or of some association or society organized for the purpose. For instance, in England there have been four great movements — one under the direction of Oxford University, one under that of Cambridge University, one under that of the Victoria University, and the fourth under that of the London Society for the Extension of University Teaching. In the United States successful movements have been associated with the University of Pennsylvania, later with the American Society for the Extension of University Teaching, with Brown University, with the New York and Brooklyn Society for School and University Extension, and with other educational bodies or associations.

For the first time in the history of the movement, however, direct government aid and encouragement have been given, in the statute which was enacted by the last Legislature of this State, authorizing the Regents of the University to act as the central head for the promotion of this work and appropriating $10,000 for their expenses.

Inasmuch as this work is quite likely to be still further brought to your attention and another appropriation asked for, I do not hesitate to express my opinion that the assumption of this duty by the State was not only unwise in principle, but that if the movement is as successful here as it has been elsewhere it will involve the State in unreasonable obligations and be a constantly increasing object of public expense.

I am aware that it has been the policy of the State to encourage higher education, and that public moneys have been appropriated for that purpose, but I respectfully submit that before the State should enlarge its field of usefulness in that direction — whatever views we may have as to the propriety of that enlargement — it should first perfect its system of common school education. The already excessive taxation of the people for this latter purpose and the lamentably inadequate results I have pointed out above.

Reform is necessary before extension.

My fears that the State will eventually find the control and supervision of university extension an enormously expensive undertaking, wrong in principle because it taxes the majority for the benefit of the few, and indefensible as State policy except under the broadest view of public welfare, are based chiefly upon the testimony of those who have been most closely identified with the new movement and upon the tendency of the movement where it has been longest tried. Thus far our State has committed itself merely to the obligation of meeting the expense incurred by the Regents under their granted authority "to cooperate with localities, organizations and associations in this State, where such education shall be desired, and to aid therein by recommending methods therefor, designating suitable persons as instructors, conducting examinations, granting certificates thereupon, and otherwise rendering assistance in such educational work." The statute moreover expressly provides that no part of the appropriation shall be used in paying for the services or expenses of persons designated or appointed as lecturers or instructors, it being the intent of the act that such expenses shall be borne by the localities benefited.

Yet if the State were to stop there the annual expense must be largely in excess of the present appropriation if the movement is to be successful — the tendency of every State commission or bureau being toward an increased expenditure. But will the State stop there? Experience and testimony in England do not give much encouragement of an affirmative answer to this question. Prof. R. G. Moulton, who is a Cambridge University Extension lecturer, and who has been explaining the movement to audiences in this country, says in a public address: "We in England have tried, have ransacked every form of contrivance, in order to make the movement pay itself — I mean pay itself out of the fees and tickets of the students who attend the lectures; and we have failed." So general has been this failure in England that dependence has been largely had upon private benevolence and endowment, and now the promoters of the movement are turning to the government for financial assistance. In 1889 a national committee was appointed "for obtaining a grant in aid of university extension." In 1890, the Local Taxation act gave permission to English county councils to apply a certain part of the proceeds of a tax on spirits to technical education under university extension courses, and one county alone has this year appropriated £1,500 for this purpose. Even this indirect government assistance has not satisfied the friends of the movement, however, and in June last, at a meeting attended by many prominent educators and others, it was resolved to petition for a government grant to properly organize local bodies for the conduct of university extension teaching. This direct grant is desired not merely to pay supervisory expenses, but to meet part of the cost of teaching. There seems every possibility that the government in England will soon be bearing the greater part of the expense of this movement.

Is the prospect any better for abstention from seeking a larger share of government aid in this State — especially when the entering wedge has already been inserted?

Clearly it is not the intention of the promoters of university extension in this country to make it "pay itself." The American Society for the Extension of University Teaching says: "No great work in education along higher lines has ever been self-sustaining, in the ordinary sense of that term, and the society will be obliged to rely on the public spirit of all citizens, rich and poor, for funds to carry on the work." A writer in the Popular Science Monthly for November last, after discussing the cost of the movement, says: "The possibility of enlisting Government aid opens a larger question. University extension is a national movement which is intended to reach all classes and to promote the most vital interests of the nation. It has then as large a claim upon the national pocket-book as any interest which the Government can recognize." Even the Regents of the University, in their extension bulletin, invite contributions to the movement, saying: "While the feeling seems to have generally prevailed that the funds of the State, raised by taxation, should not be used for the expenses of local work, however beneficent — and in that spirit the legislative appropriation in behalf of university extension was limited to general supervisory uses; still, the cause of public education could be greatly advanced if it were possible to supplement and aid the work with judicious appropriations of money in the poorer and sparsely populated localities.''

With such conditions prevailing, further recourse to State assistance would not be unnatural, and I submit the question to your practical judgment whether it is wise for the State to continue to bear this questionable, and in the future, perhaps, awkward responsibility.[5]

EXECUTIONS BY ELECTRICITY.

During the past year and a half there have been several executions of convicts sentenced to death in the State prisons, under the provisions of what is popularly known as the ''Electrical Execution'' act, passed in 1888. The results of those executions have been regarded by expert witnesses as a satisfactory vindication of the new method of inflicting the death penalty, furnishing, it is said, a speedy and painless death, and being less revolting in its operation than was the old method of hanging.

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[5] The Legislature at this session passed a revised University law, chapter 378, which contained the following provision relative to University extension:

"The Regents may co-operate with other agencies in bringing within the reach of the people at large increased educational opportunities and facilities, by stimulating interest, recommending methods, designating suitable teachers and lecturers, lending necessary books and apparatus, conducting examinations, and granting credentials and otherwise aiding such work. No money appropriated by the State for this work shall be expended in paying for services or expenses of teachers or lecturers."

For veto of appropriation for university extension see *post* p. 81.

Chapter 516, approved May 12, was intended to enlarge facilities for education by authorizing trusts for the establishment of libraries, museums, and other educational institutions. The act vested in the donor power to determine the object of the trust, and to prescribe regulations concerning the administration of it.

School libraries were further provided for by chapter 573, approved May 14.

There is one feature of the law, however, which is of doubtful constitutionality and of questionable propriety. I refer to that provision which prohibits the newspaper publication of an account of the details of the execution. The exact reading of the law upon this point is as follows:

"No account of the details of any such execution, beyond the statement of the fact that such convict was on the day in question duly executed according to law, at the prison, shall be published in any newspaper. Any person who shall violate or omit to comply with any provision of this section shall be guilty of a misdemeanor."

This provision of law has been generally disregarded by the newspaper press. In my opinion, it was unwisely made a part of the statute. The adoption of so novel a method for inflicting the death penalty as electricity naturally excited world-wide attention and aroused both popular and scientific interest. There was in the beginning some question of its success. The public curiosity to know the actual results of the experiment was intense. It did not spring from morbidity, but from wholesome interest. The feeling was general that so radical and important a departure from existing methods should be carefully studied and the facts relating thereto truthfully stated. There is a popular aversion to secret methods of performing public duties.

In response to this sentiment the newspapers, at the time of the various executions, contained long and graphic accounts of what purported to be accurate descriptions of the details of the executions. If the descriptions were accurate the law was deliberately violated. If they were inaccurate the public was grossly imposed upon. In any case this provision of the law is not sustained by public sentiment and is practically a dead letter.

I therefore recommend its repeal. I have no sympathy with that morbid taste which yearns for revolting details of human suffering and misfortune, and would make heroes out of criminals, but I recognize a legitimate public interest in the adoption and trial of this new method of execution, and I would not shut out from the people the opportunity, under proper restrictions, of securing the most unbiased information regarding its operation.[6]

Other legislation has also been suggested to facilitate the operation of the statute providing for electrical executions. The infliction of death by electricity requires expert supervision and perfect appliances. These, it has been thought, are not always easily attained in the State prisons. Besides, the cost of establishing and maintaining the necessary apparatus in each prison is considerable and should be avoided if practicable. I would respectfully invite your attention, therefore, to the recommendation of the Superintendent of Prisons, that the statute be amended so as to provide for but one plant, in a building especially constructed for the purpose, and containing the necessary rooms and apparatus, under the charge of a competent and trustworthy electrician. My own opinion is that, should it be deemed advisable to adopt this suggestion, the plant should be connected with one of the largest and most accessible prisons, rather than established separately. This would be more practicable and more economical.

THE WORLD'S FAIR.

The Legislature has yet made no provision for the proper representation of the State at the World's Fair in Chicago next year. This should be one of the first acts of your honorable body. The time is growing short for the erection of a suitable building for the exhibition of the State's interests, and if New York is to be represented commensurately with its commanding position and great resources speedy legislative action is necessary. This duty the State owes to its commercial and industrial interests. The provision for State representation and participation should be liberal, but not extravagant. Our citizens will not begrudge an appropriation of public money for this purpose which will enable the State to be properly represented, but they will disapprove any extravagant expenditure, and will insist that whatever appropriation is granted shall be wisely expended under competent direction.[7]

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[6] The provision referred to by the Governor, prohibiting the publication of the details of an execution, was repealed at this session by chapter 16, passed February 4, amending section 507 of the Code of Criminal Procedure.

THE STATE PRISONS.

The highest number of convicts in the State prisons during the fiscal year 1891 was 3,913, an increase of 208 over the highest number during the previous year. The three prisons have but 3,737 cells and it has therefore been necessary in many instances to place two convicts in one cell. The need of more prison room is urgent and provision for it should be made by the Legislature.[8]

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[7] Chapter 236, passed April 6, provided for the appointment by the Governor ot three commissioners to act in conjunction with three commissioners appointed by the President of the United States as representatives of the State at the World's Fair.

The same act provided for managers to represent judicial districts, and for women managers. The act appropriated $300,000. The Board of General Managers was also authorized "to take such steps and make such preparation as in their judgment may be necessary or proper for the representation of the State of New York upon the occasion of the naval review in New York harbor in April, 1893."

The Board was also authorized to make provision for the proper commemoration on the 12th of October, 1892, of the 400th anniversary of the discovery of America by Columbus.

This celebration was made the subject of a special act, chapter 331, passed April 18, prescribing various details relative to action by the city of New York, concerning exercises to be held in that city.

Chapter 332, passed April 18, made the 12th of October, 1892, a public holiday as to commercial paper.

[8] Chapter 116, passed March 9, appropriated $114,413.25 for improvements at Clinton Prison, including the construction of steel cells, but the number was not specified.

The number of industries in operation in the three prisons during the year was twenty-two, and the number of men employed 2,158.

The financial results in the prisons for the last fiscal year show a deficiency of $201,645.23, an increase over the preceding year of $42,629.59. This increase is explained by the losses by fire at Auburn and Clinton prisons, amounting to $37,697.60, the increased cost of maintenance, $30,107.33; and the falling off of $80,012.19 in the statement of manufacturing earnings at Sing Sing, owing to the reduction in the appraised value of the assets of the industries made when a change of wardens took place in April last. The total earnings were $19,461.52 greater than those of the previous year.

The earnings and expenditures for care and maintenance, were divided as follows among the three prisons:

Sing Sing.

Expenditures for care and maintenance			$189,229 31
Miscellaneous earnings		$8,306 88	
Manufacturing earnings		64,316 40	
			72,623 28
Deficiency			$116,606 03

Auburn.

Expenditures for care and maintenance			$139,116 38
Miscellaneous earnings		$5,128 28	
Manufacturing earnings	$114,945 63		
Less loss by fire	23,795 12		
		91,150 51	
			96,278 79
Deficiency			$42,837 59

Clinton.

Expenditures for care and maintenance			$130,315 29
Add loss by fire			5,713 82
			$136,029 11
Miscellaneous earnings		$5,951 39	
Manufacturing earnings	$96,064 77		
Less loss by fire	8,188 66		
		87,876 11	
			93,827 50
Deficiency			$42,201 61
Total deficiency in the three State prisons			$201,645 23

THE REVISION OF THE STATUTES.

Commissioners of statutory revision were appointed under chapter 289 of the Laws of 1889, to report to the Legislature a revision of the general laws on certain specified topics. In pursuance of such authority the commissioners reported to the Legislature of 1890 bills which were passed with slight amendments and became laws known as the Condemnation Law, General Corporation Law, the Stock Corporation Law, the Railroad Law, the Business Corporations Law, the Highway Law and the Town Law. In accordance with the recommendation of the commissioners these laws of 1890 did not take effect until March and May, 1891. The objects of such postponement were first, that the people might become familiar with all changes in form or substance of the laws before they should take effect; and, second, that any amendments thereby found desirable might be enacted by the Legislature of 1891, in time to take effect simultaneously with the original laws.

During the interval between the legislative sessions of 1890 and 1891, the commissioners invited suggestions by way of criticism and amendment of the Laws of 1890, granted hearings to all parties desiring to propose such suggestions in person, and reported to the Legislature of 1891 the series of amendments, including the independent legislation of 1890, upon the same topics, and such other changes as were deemed advisable. Such amendments were first introduced in the Assembly of 1891, and having passed that house, with substantial unanimity, were favorably reported by the proper Senate committee, and were progressing in regular order, without opposition, in the Senate until the " dead-lock " in that body prevented their enactment.

The commissioners in their first report to the Legislature, in 1890, recommended a systematic plan for the revision of all the general laws of the State outside the Codes of Civil and Criminal Procedure and the Penal Code. That Legislature expressed its approval of such plan by chapter 313 of the Laws of 1890, making suitable appropriation for the continuance of the work of the commissioners in accordance with their proposed plan and requiring them to report the completion of their work to the Legislature of 1892. Under this broader authority, the commissioners reported a number of bills upon new topics to the Legislature of 1891, among the more important of which were revisions of the banking and insurance laws which were compiled with the assistance and approval of the superintendents of insurance and banks. The new bills so reported with slight amendments in Assembly committees passed the Assembly without material opposition, and were favorably reported by the proper Senate committees, but these bills also were blocked by the Senate dead lock.

In accordance with the requirements of the act of 1890, it is expected that the commissioners of statutory revision will report the completion of their work to the present Legislature, including again the amendments to the Laws of 1890, and the additional bills reported by them to the Legislature of 1891, as well as such other bills as are necessary to effect a complete revision of all the general statutes of the State.

The necessity of such a revision was recognized by the people so long ago as in the Constitution of 1846, and has been frequently reaffirmed since by the appointment of various commissions therefor, which have expired without the fulfillment of their purpose. While all will readily concede the necessity of the revision, it is also important that it be well done. The reports of the commissioners should be closely scrutinized by the Legislature, with whom the chief responsibility for the revision should rest. It is hoped that the present Legislature, with the aid of the commissioners, may finally effect the complete revision of the statutes which the Constitution of 1846[c] contemplated would be accomplished within a few years thereafter.[9]

THE NATIONAL GUARD.

The National Guard numbers, according to the latest reports, about 13,600 officers and enlisted men, and its condition is officially reported as satisfactory in every way. Knowing how essential the existence of a well-disciplined military force is to the State, and personally taking great interest in the guard, I shall make it my duty to see that its present excellent state of discipline and efficiency is maintained, and I recommend such legislative measures as may be necessary to its advancement and improvement.[10]

MUNICIPAL GOVERNMENT.

Evils of municipal government are not more numerous than proposed remedies. It has seemed to me a curious instance of vague endeavor that political writers so often grope about in the dark realm of theory to construct an artificial system of municipal administration out of Utopian materials, when more practical methods and more substantial materials lie close at hand. These very good and otherwise quite intelligent citizens are even occasionally found declaring that the people of large cities are unable to govern themselves, and that it is unwise to trust them with too great powers and responsibilities.

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[c] Const. 1846, art. 1, § 17.

[9] Chapter 15, passed February 2, appropriated $25,000 for continuing and completing the work of the Statutory Revision Commission. The following general laws proposed by the Commission were passed at this session:

Chapter 677, the Statutory Construction Law; chapter 678, the State Law; chapter 679, Indian Law; chapter 680, Election Law; chapter 681, Public Officers Law; chapter 682, Legislative Law; chapter 683, Executive Law; chapter 684, the Salt Springs Law; chapter 685, General Municipal Law; chapter 686, the County Law; chapter 687, the General Corporation Law; chapter 688, Stock Corporations Law; Chapter 689, the Banking Law; chapter 690, Insurance Law; chapter 691, Business Corporations Law.

Besides these, several statutes were passed amending prior general laws.

[10] Several statutes were enacted at this session amending the Military Code, and enlarging its scope in important particulars.

Yet the greatest abuses in municipal administration in our State have occurred when the people had the least voice in the management of their municipal affairs.

One of the cardinal principles of our American political system is self-government. But that principle which our forefathers carefully worked out in theory, is yet only in an early stage of development. We have been extending and elaborating its application through a century, but its evolution is far from complete. I believe its thorough establishment is the prerequisite to successful municipal reform. Complete local self-government in exclusively local affairs will solve many existing evils and prevent others which are now threatening.

The political tendency in this State since early in the present century has been in the direction of local self-government — a gradual evolution of the American theory. Local officers with merely local duties, originally appointed by State authority, are now chosen by the people of their localities, and in various ways the powers of subdivisions of the State, like counties, and again the subdivisions of the counties, like towns and cities and villages, have been amplified and increased. Local self-government now finds practical indorsement in both the letter and the spirit of our Constitution,[d] and in spite of attempts to destroy or hamper it continues to commend itself as the only practical kind of local administrative reform.

The growth of villages and cities emphasizes the importance of this question of State policy. Nearly two-thirds of the people of the State now live in villages and cities of 4,000 or more inhabitants. In 1880 there were sixty municipalities of 4,000 inhabitants or more, with an aggregate population of 2,743,632; in 1890 there were eighty-four, with an aggregate population of 3,805,577. The increasing segregation of people presents new questions of municipal administration which the people themselves are more capable of deciding wisely than an irresponsible body elsewhere.

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[d] Const. 1846, art. 10, § 2.

To deny them that right is a species of tyranny which is not only unjustifiable in principle, but often imposes minority rule upon a majority and leads the way to great abuses, against which local protests are vain.

Undoubtedly proper changes in our Constitution would emphasize and strengthen this tendency toward the establishment of Home Rule, but it is not necessary to wait for that somewhat slow process. The Legislature has in its own hands the solution of the greater part of the municipal problem. It can wisely extend and enlarge the functions and powers of local authorities. But above all it can refrain from unnecessary interference with the affairs of municipalities. The willingness of the Legislature in times past to assume the authority of boards of aldermen and mayors and boards of supervisors has done more harm than good, and no greater benefit can the Legislature give our cities than to leave them to manage their own affairs in their own way. The Legislature should be content with supplying the framework of municipal government, wisely guarded against possible abuses, and within that framework the properly constituted local authorities should have sole charge of local administration. Where responsibility is fixed, remedy for abuses is easy.

I am not afraid to trust the people, but if the people of a municipality choose to endure misgovernment rather than to correct it, I am not aware that under our theory of government the State should attempt the correction by assuming municipal authority and functions. The State's interference may occasionally be wholesome, but it is more likely to be pernicious.

STATE CARE OF THE INSANE.

The State is now practically committed to the policy of assuming the entire care of its indigent and insane poor. Recent legislation, enacted after much public exposure and discussion of the evils of the county system, has definitely established that policy and the work of carrying it out is now going on. The last Legislature made a liberal appropriation for the erection of additional buildings on the grounds of the State hospitals for the accommodation of the insane then confined in county poor-houses, and during the last fiscal year 833 of the 2,046 dependent insane in the county poor-houses (outside of New York and Kings counties) were transferred to the State hospitals. The transfer of the remaining 1,213 is expected to be accomplished before the end of the current fiscal year.

The act of 1890 provides that when the final transfer is made the care of the insane shall be a State charge, and an annual appropriation, estimated by the Commission in Lunacy at not to exceed $1,300,000 for the present number of patients, will be necessary to comply with the provisions of this act. While this seems to be a large amount, it must be remembered that an equal or larger sum is now appropriated for the same purpose with less philanthropic results by the county boards of supervisors. The inauguration of the new policy, while brought about with humane rather than economical motives, is expected to reduce the cost of maintenance by encouraging the establishment of more uniform and systematic management, and by offering better opportunities for economy in the purchase of supplies. Until New York and Kings counties shall avail themselves of the privilege offered by the act of 1890, to turn the care of their insane over to the State, the new policy will afford an annual saving of at least $700,000 to the remaining fifty-eight counties, for about half the tax will be paid by those two counties, State taxation necessarily being general in its application.

But however the cost is distributed it must be paid by somebody, and the greatest economy consistent with proper administration should be exercised. Extravagant salaries of officers should be cut down and the strictest honesty and prudence should characterize the purchase and use of hospital supplies. Buildings should be comfortable, but not luxurious, and the hospitals should be restricted as far as possible to those for whom they are intended — namely, the public insane.

The State's investments in hospitals now amount to $9,590,488.97. There are nine separate institutions belonging to the State. In addition, New York county has four asylums for the insane, Kings county has two, and there are seventeen licensed private asylums.

The whole number of insane in custody on October 1, 1891, was 16,623, divided as follows:

State hospitals	7,200
Licensed private asylums	847
Asylums of New York and Kings counties	7,363
County poor-houses, awaiting removal	1,213
Total	16,623

This is an increase of 613 in the number of insane over the previous year, although a decrease in the ratio to population.

THE CANALS.

During the past year the work of lengthening the locks upon the canals, which began in 1884 and has been continued each year since, was suspended owing to the failure of the Legislature to grant the annual appropriation for that purpose. This subject will again engage the attention of the Legislature and should be treated with the consideration its importance demands.

The tonnage of the canals during the past year shows a slight decrease, when compared with that for the several years since the canals were made free. The reasons are stated in the report of the Superintendent of Public Works, to which I respectfully refer your attention.

The cost of maintaining and operating the canals has been in the aggregate about the same as for each of the several years previously. For other particulars in regard to these great State waterways, I commend you to the report of the Superintendent of Public Works.

ELECTORAL REFORM.

The decisions of the Court of Appeals in the legislative election cases have sustained the integrity of the recent Ballot Reform act and greatly strengthened its effectiveness as a statute to enforce the secrecy of the ballot.[e] They have given a needful emphasis to the serious responsibility which that law imposes upon county clerks and other officers, and have placed the force of judicial condemnation upon all attempts to evade the law and afford means of corruption by the identification of ballots and voters. The importance of these decisions in this respect can not be overrated, for had they been less forceful the whole efficiency of the new law as a means to prevent corruption and fraud would have been threatened. But they also serve to call attention to the necessity of guarding by every possible legislative precaution the rigid administration of the law. Wherever the law can be strengthened in this, as well as in other respects, the Legislature should be quick to act.

An honest ballot is the safeguard of our institutions. No public service can be more patriotic than that which seeks to establish it. Any measure properly drawn and not in conflict with the Constitution, which will so bulwark the present law as to make intimidation and bribery impossible, will receive my hearty approval.[11]

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[e] See People ex rel. Sherwood v. St. Bd. of Canvassers, 129 N. Y. 360; People ex rel. Sherwood v. Rice, id. 391; People ex rel. Nichols v. Bd. of Canvassers, id. 395; People ex rel. Daley v. Rice, id. 449; People ex rel. Derby v. Rice, id. 461; People ex rel. Munro v. Bd. of Canvassers, id 469.

REGISTRATION OF ELECTORS.

In 1890 the Ballot Reform act was fitly supplemented by a statute compelling personal annual registration of voters in all the cities of the State — the statute being in this respect merely an extension of the law which had for years applied only to New York and Brooklyn. The efficacy of this statute as a means of discouraging fraudulent voting has been amply demonstrated. I recommend its still further extension to the remainder of the State, so that personal registration each year shall be required of every voter, as prerequisite to his right to cast a ballot. This is necessary to prevent false registration in villages and country districts.[12]

CONTESTED ELECTIONS.

The Legislature of 1891, upon the recommendation of my predecessor, adopted an amendment to the Constitution providing for the judicial determination of contested elections of members of the Legislature. In accordance with constitutional provisions, it will be necessary for this proposed amendment to receive the approval of the present Legislature also before it can be submitted to the people, and I recommend its adoption by your honorable body. Since the last annual election, by the mutual agreement of both parties to the contest, the highest court practically exercised that jurisdiction in several cases and with excellent results.* Jurisdiction over the determination of such cases properly belongs to the courts, and I am satisfied that the proposed transfer of it will give general satisfaction when effected.[13]

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[11] A general election law, chapter 680, was passed at this session; also chapter 127, authorizing the use of the Myers' automatic ballot cabinet at town meetings. The Penal Code was also amended, chapter 693, by adding a series of provisions relating to crimes against the elective franchise.

[12] As to registration of voters, see 1893, note 10, *post*, p. 180.

CONCLUSION.

In conclusion permit me to express the hope, which I am sure will be your own endeavor, that the necessary legislative work of your session may be accomplished expeditiously and wisely. We should not forget that little legislation is more desired by the great majority of citizens than much legislation, that short legislative sessions are more popular than long sessions, and that public legislation is a worthier object of study than private legislation. The people expect the same business-like fidelity to public interests from their law-makers as from those who administer the laws. A clean, industrious, honest and economical Legislature, discharging its duty intelligently and promptly, will justify public confidence and render valuable public service.

ROSWELL P. FLOWER.

SPECIAL MESSAGES.

January 14. To the Assembly: Transmitting the annual report of the Adjutant General, and the annual report of the Board of Commissioners of Pilots.

January 18. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *January* 18, 1892.

"It is my sad duty to announce to the Legislature the death on Thursday last, at his home in Syracuse, of

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* See cases cited in note "e."

[13] An amendment transferring contested election cases from the Legislature to the courts was again adopted at this session and submitted to the people at the general election in November, 1892. The amendment was not approved. See 1890, note 35, *ante*, vol. 8, p. 982.

William C. Ruger, the Chief Judge of the Court of Appeals. So short was the period of his illness that the news of his death came with shock to the people of the State, and the sense of public loss in his departure is general and profound.

He gave the ripest years of his life to the service of the State. Born in 1824, thoroughly schooled by an active and successful practice of thirty-seven years in the law, he was elected in 1882, at the age of fifty-eight, to the highest judicial office within the gift of the State. In that distinguished office he fitly rounded out the period of a well-spent life and splendidly supplemented as a judge the well-earned fame which had previously made him one of the foremost lawyers at the bar. His knowledge of the law, the rugged honesty of his convictions, his dignity, independence and great ability gave him universal respect among lawyers as among the people. His judicial opinions have been substantial contributions to our jurisprudence, and the fearlessness which often accompanied their deliverance always challenged general admiration.

His character was that of the best type of judge — steadfastly upright in private life, clear in his convictions of justice and tenacious in their defense, never swayed by popular clamor from his own conception of duty. The unusual distinction which he attained was the just recognition of distinguished abilities and earnest purpose, and his public career has won for him an enviable place in the history of the State.

At this time of the people's mourning, which has ceased not with the dead jurist's burial, it is fitting that the Legislature should manifest in appropriate manner their recognition of Judge Ruger's eminent public services. I, therefore, recommend such action on the part of your honorable body as may most fittingly record the esteem and respect in which he was held by the people and express in generous degree the widespread feeling of appreciation of his earnest fidelity to a great public trust.

ROSWELL P. FLOWER."

January 20. To the Assembly: Transmitting the annual report of the Managers of the Society for the Reformation of Juvenile Delinquents.

January 27. To the Assembly: Transmitting the annual report of the Cooper Union.

February 11. To the Assembly: Transmitting the annual report of the Commission created by chapter 207 of the Laws of 1888, to make certain repairs and improvements in the Quarantine establishment of the port of New York.

February 15. To the Senate:

Veto of a bill entitled "An act to authorize the correction of the title of the Reformed Protestant Dutch Church of Cattsbane."

"This is a special bill the only object of which is to change the corporate name of "The Reformed Protestant Dutch Church of Cattsbane" to "The Reformed Protestant Dutch Church of Katsbaan." There is already a general law (Laws of 1870, chap. 322, as amended by Laws of 1891, chap. 38) authorizing such a corporation as this to effect a change of name by application to the Supreme Court. In pursuance of such general law this corporation might have applied to the court rather than to the Legislature for the change of name desired. This bill is, therefore, unnecessary special legislation and I cannot, consistently with sound principles of legislation, give it my approval."

The bill was not passed over the veto.

February 19. To the Assembly:

Veto of a bill entitled "An act to establish a fish hatchery in the county of Sullivan, State of New York."

"I am not convinced that the interests of the State require the establishment of another fish hatchery at the present time. There are now in operation in the State five hatcheries from which the annual distribution of fry and eggs is constantly increasing, aggregating in 1890 nearly 40,000,000, and sufficient, as I am informed, to meet the legitimate demands from the various parts of the State. These hatcheries are well situated geographically through the State, and recent improvements in the transportation of eggs and fry have facilitated greatly the successful stocking of streams and lakes. The hatcheries have by no means reached the limit of their usefulness, and I respectfully suggest that the interests of economy and wise legislation lie rather in the direction of a judicious extension of the plants already in operation than in the establishment of new ones.

I believe it is wise policy for the State to encourage increase of the food supply furnished by its waters, but successful fish propagation requires intelligent supervision and careful management, and the aim of the State should be to secure the highest degree of efficiency and productiveness in the hatcheries now existing before increasing their number. New hatcheries involve extra expense, sometimes without compensating advantages, and from the information before me I am not persuaded that the appropriation called for by this bill is required at this time."

The bill was not passed over the veto.

February 19. To the Assembly: Transmitting the annual report of the State Board of Health.

February 26. To the Assembly: Transmitting the annual report of the Commissioners of Quarantine, and the report of the Health Officer of the Port of New York.

February 29. To the Assembly:

Veto of a bill entitled "An act authorizing the transcribing of Books A. L. and N. of the records of deeds in the clerk's office of the county of Seneca."

" This bill is unnecessary special legislation. A general law already exists (Laws of 1869, chap. 855, section 7) which provides that the board of supervisors of any county shall cause the county clerk to make copies of records in his office whenever by reason of age, exposure or any casualty the same shall be necessary for the public service, and to cause the clerk to be paid therefor such sum as may be just, not exceeding a sum to be certified by the County Court as reasonable for the service rendered."

The bill was not passed over the veto.

March 7. To the Legislature:

" EXECUTIVE CHAMBER,
ALBANY, *March* 7, 1892.

" There are bills now awaiting Executive action, and others still pending in the Legislature, affecting public interests in the cities of New York and Brooklyn, which are said to bestow upon certain corporations unusual privileges and valuable franchises without any commensurate compensation to those municipalities.

I call the attention of the Legislature to these measures because in my judgment the temper of the public is not only averse to legislation for favored individuals but demands a practical and intelligent comprehension on the part of the law-making power of the relation that should exist between the municipality which has lucrative public franchises to grant and the corporations which seek them for the emoluments they are expected to yield. The great cities of New York and Brooklyn have passed beyond the experimental stage of their growth and development. Their population and wealth will continue to increase and their power and importance will become greater year by year. But the rate of their progress and the measure of their attractiveness in the years to come depend largely upon the farsightedness and wisdom of the present generation. The time has passed for temporary make-shifts in the line of public improvements. The need of to-day is to build for the future, taking instruction from the past and holding uppermost in regard the permanent comfort and prosperity of the people of these great municipalities.

The present condition of the cities of New York and Brooklyn, as affects municipal franchises, is somewhat critical. Their ultimate future growth being assured, and present possessors of public privileges, such as the use of streets for railway purposes, having made large returns upon their invested capital, remaining municipal franchises, as yet unbestowed, possess great present value, or if not offering hope of being immediately lucrative, can reasonably be expected to have some value in the future. What shall be the cities' attitude toward the corporations which seek these municipal privileges?

I have no sympathy with that immoderate concern for public interests which sees a bogy in every corporate enterprise of a public character. Nor do I approve that wholesale denunciation of men and motives with which a well-meaning but somewhat short-sighted and hysterical press evidently considers it a duty to greet every corporate attempt to obtain municipal privileges. The disposition which prompts such an attitude is eminently praiseworthy, and its exercise has prevented many a corporate outrage, but indulged, as it often is, indiscriminately and to excess, it has retarded public improvements, has placed the great metropolis of the country behind many a smaller city in facilities of transit and other public services, and has resulted in riveting only the more tightly the fetters of existing monopolistic control. Such narrowness and provincialism are unworthy of the largest city of our country.

I think the people believe in the encouragement of public improvements; I think they prefer that, so far as possible, these should be undertaken at private expense and should be managed by private enterprise; I think they are averse to the interposition of any unnecessary or arbitrary restrictions which will hamper improvements or deter investment; but I think they are practically unanimous in expecting the bestowal of municipal franchises to be surrounded with reasonable safeguards for subserving public interests and to be based upon terms approximately commensurate with the value of the privileges granted.

In view of this manifest public sentiment, and in the interest of intelligent and far-sighted legislation, I commend to the attention of the Legislature this subject of municipal franchises and respectfully suggest that it receive careful consideration in the shaping of bills now pending and hereafter to be introduced. The subject is surrounded, I am aware, with practical difficulties, but if it is approached in good faith and with the sole desire to subserve the best municipal interests much practical good can be accomplished. Careful consideration, I am sure, will suggest a wise middle course, the adoption of which will neither condemn a municipality for excessive prodigality in the disposition of its privileges nor stifle its development by the imposition of too severe restrictions.

In a spasm of public feeling generated some years ago by the exposure of corruption in connection with the granting of a franchise for building a surface railroad on Broadway, in New York, the Legislature passed what is known as the Cantor act, the distinguishing feature of which, so far as it relates to the money value of street railroad franchises, was that the latter should be sold at auction to the highest bidder. Theoretically this sale of public franchises to the highest bidder is sound in principle and ought to work well in practice, but as a matter of fact the operation of the Cantor act has been a disappointment. It has favored existing transit monopolies at the expense of much needed transit improvements. It has encouraged irresponsible bids from alleged companies whose only motives were to defeat possible rivals or to force responsible and honest companies to buy off their opposition. Very little revenue has been turned into municipal treasuries by reason of it, and cities have been deprived of the benefit from the rise in real estate values which always accompanies improved means of intercommunication. By the auction provision of the Cantor act, as it now stands, the Legislature has actually retarded public improvements and the consequent appreciation of values in New York and Brooklyn.

The danger now seems to be, however, that it may go to the other extreme and legislate away valuable franchises practically for nothing.

To guard against that danger and at the same time to offer encouragement to private enterprise for public improvement I suggest whether a wise solution of the problem is not to be found in a careful scheme of municipal compensation based upon future earnings rather than upon present estimated and uncertain values of privileges granted. The present worth of franchises is a difficult matter to calculate. A public franchise which to-day may seem of little or no value, in twenty-five years may be of great value, or a privilege which to-day men would pay well for in a few years may have lost its value. Capital is timid and will not take great risks save with the expectation of large returns. The public which has franchises to dispose of must for its own welfare encourage their disposal, should not begrudge reasonably large returns for risks taken, but should require a fair share of profits when the profits accrue from privileges which it has granted. The most sensible attitude for the public in my judgment is that which welcomes improvements by withholding unreasonable or doubtful restrictions, but insists that if a franchise granted shall prove remunerative the municipality, as grantor, shall be reasonably compensated therefor. This is a business proposition which in its general principle ought to satisfy both the public and the franchise-seeking investor. It makes the interests of both common.

The working out in detail of such a general scheme of municipal compensation must necessarily fall largely upon the Legislature in authorizing the bestowal of various kinds of franchises. Had it been adopted years ago, public improvements would have been none the less hampered, while to-day in New York, for instance, the city would be enjoying a share at least of the immense profits now earned by elevated railroads, surface railroads and other public corporations which pay practically no revenue to the local treasury for the special privileges possessed. During the last ten years the gas company of Paris has paid into the treasury of that city $40,000,000, besides lighting the streets and public buildings at cost, and the annual revenues to the city from railroad, gas, water, cab and other companies which enjoy public privileges vary from six to eight million dollars.

This experience ought to be valuable in indicating possibilities of increasing by proper legislation the indirect revenues of our own muncipalities, and of relieving by just so much the burdens of direct taxation upon the people.

I bespeak for the whole subject the earnest study and deliberation which its present and future importance demands and which current popular interest expects at the hands of the law-making power.

ROSWELL P. FLOWER."

March 11. To the Senate:

Veto of a bill entitled "An act to establish a fish hatchery in the southern tier."

"My objections to this measure are the same as those which are stated in my message to the Assembly on February 19th last, returning without approval Assembly bill No. 200, entitled 'An act to establish a fish hatchery in the county of Sullivan, State of New York.' I respectfully refer the Senate to that message."

The bill was not passed over the veto.

March 11. To the Assembly:

Veto of a bill entitled "An act to amend section eight hundred and thirty-six of the Code of Civil Procedure of the State of New York relative to confidential communications upon examination of witnesses." [14]

"This bill extends the present provisions of the Code as amended last year, by adding to the 'personal representatives' of the deceased patient, who may waive the provisions of section eight hundred and thirty-four of the Code with reference to the testimony of physicians or surgeons, the following persons, namely, 'the surviving husband, widow, or an heir-at-law *and* next of kin.' In the case of the validity of a will being in question the bill extends the provisions of the Code by adding to the 'executor or executors' of the deceased patient who may waive the above provisions 'the surviving husband, widow, or an heir-at-law, *or* next of kin.'

It will be seen therefore that the bill is ambiguously drawn, but beyond that criticism I am not convinced of the propriety of the proposed change in the law, and cannot consistently give the measure my approval."

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[14] This bill was not passed over the veto, but another bill amending section 836 of the Code of Civil Procedure was passed, and became a law, chapter 514, on the 12th of May. This act was sustained in Re Gagan (1892), 47 N. Y. S. R. 444; Supreme Lodge K. of P. v. Meyer (1905), 198 U. S. 508.

March 11. To the Assembly:

Veto of a bill entitled "An act to amend section seven hundred and forty-nine of the Code of Criminal Procedure of the State of New York, relating to stay of execution of sentence, of appeal and review of commitments."

"I doubt the wisdom of this proposed amendment. It requires courts of Special Sessions to stay execution of sentence not less than forty-eight hours in a city, and not less than four days outside of a city, to enable the defendant to perfect an appeal. Aside from the questionable length of the stay, this provision, in its present mandatory shape, would apparently promote indefinite stays, an abuse which is sometimes now alleged and which in my opinion should not be encouraged by legislation."

The bill was not passed over the veto.

March 15. To the Senate:

Veto of a bill entitled "An act to establish a law library in the sixth judicial district to be called 'the Supreme Court library at Elmira,' and making an appropriation therefor."[15]

"This bill appropriates four thousand dollars for the establishment of a law library at Elmira upon condition that an equal sum therefor shall be raised by local private subscription, or by resolution of the board of supervisors of Chemung county. The Justices of the Supreme Court of the Sixth Judicial District and their successors are made the trustees of the library.

There are now eleven Supreme Court libraries established and supported wholly or in part by State appropriations. These are located respectively in the cities of New

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[15] This bill was not passed over the veto. A judicial district library was established at Elmira in 1895, chapter 231. The act appropriated $3,000, to be paid when an equal amount should be raised either by private subscription, or by resolution of the Chemung county board of supervisors.

York, Brooklyn, Kingston, Newburgh, Utica, Syracuse, Rochester, Buffalo, Binghamton, and the villages of Saratoga Springs and Delhi. They are supposed to have been established chiefly for the use of the Justices of the Supreme Court residing in the various cities and villages where the libraries are located. The only tenable ground for making State appropriations for these libraries is that the State may properly supply its officers with the equipment necessary for the performance of their duties. Such a policy, consistently carried out, would give a library to each Supreme Court judge, to be located where he resides and to be transferred upon the expiration of his term to the place of residence of his successor. Certainly there can be no valid argument in favor of State appropriations for merely local libraries, however valuable they might be to the lawyers and others of the communities in which they are located.

But this bill locates the proposed library permanently at Elmira, whether there shall be a Supreme Court judge residing there or not. The inconsistency of such a provision is already exemplified in the Supreme Court law library which is permanently located at the village of Delhi, although there has been no Supreme Court judge residing there for a number of years. There is no better reason for the continuance of State appropriations to that law library than for a State appropriation for a law library at the county seat of each county in the State.

It is perhaps doubtful whether the State should assume the policy of supplying every justice of the Supreme Court with a law library. But however that may be, it seems clear that the State should not locate any such library permanently in any city unless it is reasonably certain that there will always be a justice of the Supreme Court resident in that city.

This bill adopts the provisions of existing laws, making a justice of the Supreme Court the trustee of the library, which provision appears to be in conflict with section ten of article six of the Constitution, which provides that no judge of the Court of Appeals or justice of the Supreme Court shall hold any other office or public trust. If this were the only objection to the bill it could be easily obviated by amendment. The other objections are inherent in the essential theory of the bill, and, in my judgment, are inconsistent with the true policy of State appropriations for local purposes."

March 15. To the Assembly:

Veto of a bill entitled "An act to amend title eleven of the Penal Code by adding a new section to be known as section three hundred and fifty-six; to prevent deception in the manufacture and sale of articles of gilded ware."

"The bill is faultily drafted. It purports in its title to amend the Penal Code, but in its first section amends title eleven, of chapter six hundred and seventy-six of the laws of eighteen hundred and seventy-six. The Penal Code is chapter six hundred and seventy-six of the laws of eighteen hundred and eighty-one.

As to the substance of the measure, I am informed that its object is 'to prevent manufacturers and merchants selling picture frames, mouldings, books, cards and decorative works of art, gilt with imitation leaf, for articles gilt with gold leaf.' The bill's provisions however are certainly more sweeping in their effect. One of them is that 'no person shall sell, or offer, or expose for sale any article which is in whole or in part covered with gilt or gilding, unless said article shall be distinctly and durably branded or labeled with the name and place of business of the manufacturer thereof, and the words 'gold leaf gilt,' in case the gilt or gilding on such article is all genuine gold leaf gilt or gilding, or the words 'imitation gold leaf gilt' in case the gilt or gilding on such article is not all genuine gold leaf gilt or gilding.' Violation of this provision is made a misdemeanor and is punishable by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment of not less than ten days or more than sixty days, or by both fine and imprisonment.

It has been urged against the bill, with force, in my opinion, that such legislation would be unjust to jewelers and others, who, under the provisions of this bill, would be compelled, before July 1, next, to dispose of all articles in stock which in whole or in part are covered with gilt or gilding, or else return them to the manufacturer to have branded upon them the words to indicate their genuine or imitation character and the name and place of business of their manufacturers. I do not believe the evil of occasional imposition by the deception of merchants is sufficient to justify so arbitrary and sweeping an amendment to the Penal Code, and I am therefore unable to give my approval to the measure."

The bill was not passed over the veto.

March 15. To the Assembly:

Veto of a bill entitled "An act for the construction of a vertical retaining wall in place of the slope wall constructed along the northerly or towing-path side of the Erie canal, in the town of Royalton, county of Niagara, from the east line of Charles Day's land three hundred feet, and to make an appropriation therefor."

"The appropriation provided for in this act is given upon the condition that no part of it shall be expended until the Superintendent of Public Works shall file with the Comptroller his certificate that the work is necessary and should be done at the expense of the State. I am informed by the Superintendent of Public Works that the work is not necessary, and I therefore cannot consistently give the bill my approval."

The bill was not passed over the veto.

March 17. To the Assembly: Transmitting the annual report of pardons, reprieves and commutations.

March 21. To the Senate:

Veto of the following item contained in a bill, chap. 173, entitled "An act to reappropriate the unexpended balance of a former appropriation for the payment of awards of the Board of Claims, in claims other than those on account of the canals of this State and for making further appropriation for the payment of the awards of the Board of Claims."

"§ 2. The further sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay awards which may be made by said Board of Claims, in claims other than those on account of the canals of this State, during the present calendar year, with interest upon said awards from the date thereof, respectively; but no such awards to be paid except upon the filing with the Comptroller of a copy of such award duly certified by the clerk of the Board, and a certificate of the Attorney-General that no appeal from such award has been or will be taken by the State.'

This item is objected to and not approved upon the ground that it is questionable policy for the State to appropriate in advance moneys for claims which have not yet been awarded by the tribunal established for that purpose. I am aware that this course has been followed in the past, and is defended upon the ground of economy, in that it saves to the people some interest on the amount of awards granted during the recess of the Legislature. But I do not consider it wise in principle, and the practice is likely to be abused by encouraging greater taxation than is needed.

This is demonstrated conclusively by the legislation of last year. Chapter 73 of the Laws of 1891, which corresponds in form to this bill now before me, reappropriated for a similar purpose the balance of $31,250 remaining in the treasury unexpended of an appropriation of the previous year, and added a new appropriation of $50,000, making altogether a sum of $81,250 available for payments of awards to be granted during the remainder of the calendar year. As a matter of fact the payments during the remainder of the year were only $19,350, leaving an unexpended balance of $61,900, which sum, by the first section of this bill, is now reappropriated. The additional sum of $50,000 in 1891 was therefore unnecessarily collected from the people. I give my approval to the reappropriation provided for in this bill, but for the reason stated I disapprove the additional appropriation."

The item was not passed over the veto.

March 21. To the Assembly:

Veto of a bill entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim of Hattie L. Burhans against the State, and to make an award therefor." [16]

"By this bill the claimant seeks to secure damages against the State for personal injuries received by her in falling through an elevator shaft in the State Normal school building at Fredonia. In my opinion it is against public policy for the State to pay damages for personal injuries in State buildings, and for that reason I am unable to approve the measure."

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[16] The bill was not passed over the veto, but the next year, 1893, by chapter 360, which the Governor permitted to become a law without his approval, Hattie L. Burhans was authorized to present to the Board of Claims a claim for damages for injuries by reason of falling through an elevator shaft in the State Normal School building at Fredonia.

March 21. To the Assembly:

Veto of a bill entitled "An act to authorize the city of Cohoes to acquire and pay for lands necessary for the extension and opening of Schuyler street in the city of Cohoes."[17]

"Chapter 912 of the Laws of 1869, which incorporates the city of Cohoes, already makes ample provision for the extension and opening of streets, and the proposed bill is unnecessary. If the powers of the charter are not sufficiently ample in this respect, they may be extended by amendment. That course is preferable to special legislation every time it is desired to open or extend a street."

March 21. To the Assembly:

Veto of a bill entitled "An act to amend section two hundred and fifty-one of chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo."

"I regret that I cannot approve this bill. Its purpose is to enable members of the fire department to have three days' leave of absence in each month instead of two. The only method of relief is by legislation, inasmuch as the city charter arbitrarily prescribes the number of days' leave which the fire commissioners shall allow. From the facts before me there would seem to be strong reasons for granting the firemen an additional holiday in each month. The mayor of Buffalo, however, and the fire commissioners have protested against the bill on the ground that it is unnecessary, that it will involve an extra expense to the city of about $24,000 a year, and that it will impair the efficiency of the fire department. Although sympathizing therefore with the general purpose of the bill, I yield to the judgment of the local authorities, who ought to be better qualified to pass upon the merits of the measure, and return the bill without approval.

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[17] This bill was not passed over the veto, but a new charter for Cohoes was passed May 18, chapter 671, which contained provisions authorizing the extension of streets by local authorities.

In a matter affecting the relations between the heads of a municipal department and its employees proper regard for efficiency of service requires a reasonable compliance with the wishes of the superior and responsible officers."

The bill was not passed over the veto.

March 21. To the Assembly: Transmitting the annual report of the Civil Service Commission.

March 23. To the Assembly:

Veto of a bill entitled "An act to amend section six hundred and ninety of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter two hundred and sixty-two of the laws of eighteen hundred and eighty-seven, relative to park police, and their appointment."[18]

"This bill is objectionable in its mandatory features. It takes away certain powers now properly reposed in the park commissioners, and now and heretofore exercised by them in their discretion, and compels them to do certain things which may or may not be wise, but of the wisdom or unwisdom of which the park commissioners ought to be better judges than the Legislature. They present questions affecting the efficiency and discipline of the park department, and their determination properly belongs to the board of park commissioners, in whom the people of the city of New York, through their elective officers, have intrusted jurisdiction over such matters. If the park commissioners do not discharge the duties of their office satisfactorily, the people have the remedy in their own hands; but the Legislature ought not to assume the responsibility of conducting the affairs of a municipal department.

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[18] This bill was not passed over the veto, but another bill was passed, chapter 365, on the 22d of April, which conferred on the New York park commissioners discretionary power in relation to the matter included in the vetoed bill.

That the park commissioners are quickly responsive to public sentiment has been conspicuously demonstrated within the past twenty-four hours, when in compliance with strong expressions of public disapproval against the establishment of a new drive-way in Central Park, authorized by recent legislation, they availed themselves of the permissive features of the law under which their power to make plans for a drive-way was granted, and promptly rescinded their previous resolution making requisition upon the board of estimate and apportionment for the necessary appropriation to carry on the work. Had the Legislature in that case enacted a mandatory law, the city would have had no redress save by securing its repeal, and the park commissioners would have had no option but to make the necessary provision for the proposed driveway, irrespective of the pronounced opposition of the people of the municipality. So long as municipal charters continue to define specifically almost every power of the departments or officers of local government, and are subject each year to legislative amendment, perfect local self-government is not attainable, but in the yearly grant of new powers or the restriction of old powers a large measure of Home Rule can be accomplished by permissive rather than mandatory legislation."

March 24. To the Assembly: Transmitting the annual financial report of the trustees of the Sailors' Snug Harbor.

March 29. To the Assembly:

Veto of a bill entitled "An act to amend chapter two hundred and fifty-three of the laws of eighteen hundred and fifty-nine, entitled 'An act to amend the charter and the several acts relating to the village of Waterford, and to incorporate the same into one act."

"The main provision of this bill is that the village of Waterford shall not be liable for injuries from defects in the streets, sidewalks or bridges of that village unless actual notice of the defect 'shall have been given to the president of said village, or the board of trustees thereof, at least twenty-four hours previous to such damage or injury.'

The common law, as settled by the courts, imposes upon cities and villages liability for damages from defects in streets and sidewalks if the defect has existed so long that the officials charged with the duty of repairing the streets would with reasonable diligence have discovered and repaired the defect. The failure of the proper officials to discover and repair the defect within such reasonable time is held by the courts to be equivalent to actual knowledge thereof. The law as so laid down by the courts requires village officers to be reasonably diligent in discovering and repairing dangerous defects in streets and sidewalks, and renders the village liable for negligence of its officers in discovering defects, as well as for negligence in repairing after discovery. The change in the law proposed by this bill places a premium upon the negligence of the officials of the village of Waterford in ascertaining the condition of its streets, sidewalks and bridges. Under this bill, if the village officials should take pains not to discover such defects, however dangerous, the village would not be liable for damages therefrom, unless some person, not charged with any special duty in the premises, had given actual notice thereof either to the president or to the board of trustees of the village.

This is not a matter which concerns the citizens and taxpayers of the village of Waterford merely; it concerns every person who is liable to travel its streets and sidewalks. Such a provision, as proposed by this bill, has, it is true, crept into some village and city charters, but the diligence of interested counsel has failed to discover any such provision in the legislation of the past eight years. It is doubtful if the Legislature is ready to adopt such a provision for all the cities and villages of the State. If it is not good public policy for all cities and villages, it is not good public policy for the village of Waterford. If the Legislature should make such a provision applicable to all cities and villages and thereby express their deliberate adoption of the policy proposed by this bill, the question might assume a different aspect, but for the present at least I cannot approve of this policy in a special and exceptional instance.''

The bill was not passed over the veto.

March 30. To the Assembly:

Veto of a bill entitled "An act making an appropriation for the improvement of the Oak Orchard Creek and canal feeder."

"The public improvement sought to be accomplished by this bill would probably be of benefit to the Erie canal; but the amount appropriated, namely, $35,000, is considerable, and, in view of the necessity for other appropriations for canal improvements at this session of the Legislature — appropriations which the interests of the canal make more imperative than that provided by this bill — I am disinclined to give the bill my approval at the present time. The interests of economy, in my judgment, demand that all appropriations which are not imperatively needed for the maintenance and improvement of the canals should be deferred until some other year.''

The bill was not passed over the veto.

April 4. To the Senate:

Veto of a bill entitled "An act to amend chapter ninety-four of the laws of eighteen hundred and thirty-one, entitled 'An act to incorporate the Society for the Relief of Orphan and Destitute Children in the city of Albany."

" This legislation is unnecessary. A general law (Chapter 322 of the Laws of 1870, as amended by Chapter 280 of the Laws of 1876) already provides for the desired change of name, and another general law (Chapter 553 of the Laws of 1890) authorizes the society to increase the amount of property it may hold to $3,000,000, or the amount of yearly income from its property to $250,000. Both objects of the measure are therefore attainable without recourse to special legislative action."

The bill was not passed over the veto.

April 4. To the Senate:

Veto of a bill entitled "An act to amend section one of chapter one hundred and sixty-five of the laws of eighteen hundred and twenty-six, entitled 'An act to incorporate the Union Literary Society of Ellisburgh.'"

" The bill has two principal objects — to change the name of the society and to increase the limit of yearly income which it may hold from five thousand dollars to fifteen thousand dollars. Both of these objects may be accomplished under existing laws — the change of name under Chapter 322 of the Laws of 1870, as amended by Chapter 280 of the Laws of 1876, and the increase of yearly income under Chapter 553 of the Laws of 1890. The bill is therefore unnecessary."

The bill was not passed over the veto.

April 4. To the Assembly:

Veto of a bill entitled "An act to amend chapter four hundred and ninety-six of the laws of eighteen hundred and seventy-nine, entitled 'An act to incorporate the Supreme Council of the Catholic Mutual Benefit Association."

"The objects of the bill can already be accomplished by general laws (see Chap. 553, Laws of 1890), and its enactment is therefore unnecessary."

The bill was not passed over the veto.

April 5. To the Assembly:

Veto of a bill entitled "An act to authorize the Congregational Society of the town of Worcester, county of Otsego and State of New York to remove the dead bodies from the cemetery belonging to said society, and to use the said cemetery lands for other purposes."

"This legislation is unnecessary. Ample power to accomplish the same purpose is contained in a general law, namely,—Chapter 349 of the Laws of 1878, as amended by Chapter 600 of the Laws of 1887."

The bill was not passed over the veto.

April 5. To the Assembly:

Veto of a bill entitled "An act to amend section seven of chapter eight, title four of part one, Revised Statutes."

"Chapter 323 of the Laws of 1874, which superseded the section of the Revised Statutes proposed to be amended in this bill, restricts the deposit of moneys in the general fund of the treasury to banks in the cities of New York and Albany. This measure authorizes the Treasurer to deposit all public moneys, not belonging to the canal fund, in any bank in the State having a capital of $50,000 or over, which, in the opinion of the Comptroller and Treasurer, shall be secure and will pay the highest rate of interest for such deposit. Aside from the question of propriety involved in authorizing so general a distribution of public moneys that are liable to sudden drafts from the treasury, this measure throws no safeguards around such deposits, places no limit upon the amount of deposits in each bank, requires no bond from the banks receiving the deposits, and omits other precautionary provisions which should accompany such important legislation. The custody of the people's money is too serious a responsibility not to be surrounded by all proper safeguards, and ordinary restrictions should be imposed by statute rather than be made a matter of official discretion."

The bill was not passed over the veto.

April 6. To the Senate:

Veto of a bill entitled "An act making an appropriation for dredging Black Rock harbor and the Erie basin."

"The $60,000 appropriated by this bill is reported by the Superintendent of Public Works to be necessary for the completion of the work of improvement in Black Rock harbor and the Erie basin, and the appropriation is asked for by representative business men of the city of Buffalo; but the amount of appropriations which are absolutely needed for canal improvement at this session of the Legislature is so large that all appropriations not immediately imperative ought, for economy's sake, to be deferred till another year, and with this view I am unable to give the bill my approval at the present time."

The bill was not passed over the veto.

April 6. To the Senate:

Veto of a bill entitled "An act to provide for lengthening of abutments and widening of superstructure of the bridge over Erie canal at Monroe avenue in the city of Rochester."

"This measure is in violation of the declared policy of the State toward canal bridges, as expressed in chapter 366 of the Laws of 1891. The bill appropriates $10,500 for the reconstruction of a bridge built by the State in 1887, still in good condition, and, in the opinion of the Superintendent of Public Works, of ample strength to bear any loads it is likely to receive. So far as the State's responsibility extends, there is no reason for the appropriation. The proposed reconstruction would be almost exclusively a local benefit, and its expense in my judgment should be borne, or at least shared, by the city of Rochester."

The bill was not passed over the veto.

April 6. To the Senate:

Veto of a bill entitled "An act to confirm and levy certain assessments and taxes upon the persons, corporations and property lawfully taxable in the town of York, county of Livingston."

"The apparent object of this bill is to validate the assessment roll of the town of York for the year 1891. The Legislature has the power to cure a certain class of defects and irregularities in the assessment and levy of taxes, and it has not the power to cure another class of defects. The distinction between the two classes of defects is clearly indicated by the Court of Appeals in its decision rendered December 22, 1891, In Re Union College, 41 N. Y. State Reporter, 640.[f]

Upon the face of this bill there is no indication of the class of defects sought to be cured. The Legislature assumes itself to assess, levy and impose the tax in question; and further assumes: 'such assessments hereby made and taxes hereby levied and imposed, being the same in amount as would have been legally assessed, levied and imposed upon and collected from said persons, corporations and non-resident land-owners in case the assessors of said town of York had fully complied with all the provisions of law.'

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[f] See 129 N. Y. 308.

There is nothing upon the face of the bill to indicate how the Legislature can know whether the amounts of the taxes the Legislature by this bill assumes to assess, are the same as would have been assessed by the assessors, if they had done their duty. There is nothing upon the face of the bill to indicate what duties the assessors omitted to perform.

The bill upon its face is unconstitutional for it assumes to assess and levy a tax without notice to the taxpayer. The assessment of a tax is a judicial rather than a legislative proceeding. It involves the taking of property of a citizen by the State, which cannot be done without due process of law, including notice to the citizen and an opportunity to be heard.[s]

The unfortunate manner of drafting this bill also raises a serious question whether it complies with art. III, sect. 20 of the Constitution, that every law which imposes a tax shall distinctly state the tax and the object to which it is to be applied.

The bill might have been so drafted as to specify the precise defects sought to be cured, and to validate those defects, if in the power of the Legislature so to do. It is certainly not too much to ask that a bill should be so intelligibly drawn that the Legislature and Executive can tell precisely what it proposes to do. This bill has once before during the present session of the Legislature reached the Executive but was recalled by the Legislature and a sufficient opportunity given for amendment in the respects indicated, but the bill has been again returned to the Executive without amendment.

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[s] Const. 1846, art. 1, § 6.

A second objection to the bill is that it expressly proposes to affect pending litigation. While it is within the power of the Legislature to take pending cases out of the courts and fix the rights of the parties in cases like the present, it is respectfully submitted that such power should be exercised by the Legislature only in exceptional cases; and that parties to ordinary litigation should try their cases out in the courts and not apply to the Legislature to relieve them from anticipated defeat in pending law suits. There does not seem to be any sufficient reason why pending litigation should be affected as proposed by this bill."[19]

The bill was not passed over the veto.

April 6. To the Assembly:

Veto of a bill entitled "An act to provide for the payment of the expenses of the various elections to be held in the city of Yonkers in the year eighteen hundred and ninety-two, and authorizing the issuing of bonds therefor."[20]

"The reason presented for the enactment of this bill is that the amount allowed by the charter of the city of Yonkers to be raised annually for city expenses is not sufficient to cover the increased cost of elections under the new ballot law. The remedy which would naturally suggest itself for this state of affairs would be an amendment of the city charter increasing the limit of moneys allowed to be raised by taxation for the ordinary expenses of city government. The course which has been followed, however, has been to seek special legislation each year for the accomplishment of this particular purpose. Until the charter is amended, an act of this kind will be necessary each year. Special legislation of this kind may be justifiable at times, but there is no reason why the Legislature should be compelled each year to provide for the payment of the election expenses of a municipality. I would gladly sign a bill properly modifying the city charter, but I cannot consistently permit this bill to become a law."

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[19] For a discussion as to the judicial power of the Legislature, see People ex rel. McDonald v. Keeler (1885), 99 N. Y. 463. As to declaratory statutes, see Salters v. Tobias (1832), 3 Paige, 338; People ex rel. Mut. L. Ins. Co. v. New York (1857), 16 N. Y. 424.

[20] This bill was not passed over the veto, but the next year, 1893, an act was passed, chapter 596, which among other things authorized the common council of Yonkers to raise money by tax for election expenses.

April 6. To the Assembly:

Veto of a bill entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages,' relating to the collection of taxes."

" The bill amends the general act for the incorporation of villages by authorizing the trustees to bring action for the collection of poll taxes. The measure also goes to the extreme of providing that in such action no personal property of the debtor shall be exempt from levy and sale by virtue of an execution issued upon a judgment for a poll tax. I seriously question the desirability of such legislation and am unable to give it my approval."

The bill was not passed over the veto.

April 6. To the Assembly:

Veto of a bill entitled "An act to improve and clear Saranac river in Essex and Franklin counties, above the dam at Saranac lake in Franklin county, and making an appropriation therefor."

" This measure appropriates twenty thousand dollars of public money for a local improvement in the vicinity of

Saranac lake. I am unaware that any obligation is imposed upon the State to make this improvement, and, inasmuch as it will benefit local interests exclusively, the State, in my opinion, should not be called upon to pay the expense incurred. I do not think the people of the State will approve lavish appropriations for the benefit only of particular localities. It is the people's money which is thus voted away, and the same careful scrutiny should characterize its distribution that we as individuals would apply to the disposition of funds which we hold in trust for others."

The bill was not passed over the veto.

April 6. To the Assembly:

Veto of a bill entitled "An act to amend chapter one hundred and nineteen of the laws of eighteen hundred and eighty-nine, entitled 'An act to amend, revise and consolidate the laws in relation to the village of Penn Yan, in the county of Yates,' as amended by chapter one hundred and eighty-eight of the laws of eighteen hundred and ninety."

"The object of this bill is to so change the boundaries of the village of Penn Yan as to exclude from the corporate limits of the village the property of a single taxpayer. There is no public sentiment in the village of Penn Yan, so far as I am aware, in favor of the bill, and the board of trustees is unanimously opposed to it. The bill has been before the Legislature before, but was defeated. I am informed, also, that two successive boards of trustees preceding the present board, without respect to party, also declared themselves in opposition to this proposed change of boundary lines."

The bill was not passed over the veto.

April 8. To the Assembly:

Veto of a bill entitled "An act relative to the appointment of inspectors and poll clerks of election in the city of Cohoes."

"The facts before the Executive in his consideration of this bill are simple and his duty is plain.

The facts are these: On Tuesday next will occur the charter election of the city of Cohoes; there are three candidates for the office of mayor, two of whom are Democrats and one a Republican; the bill before me, which is urged only by the friends of one of the candidates, legislates out of office the present inspectors of election, who have held that position since July, 1891, and provides for a new set who shall be appointed immediately by the board of police commissioners and shall hold office until September first next, or practically for this election only. Thereafter the inspectors are to be appointed by the police commissioners, instead of being elected by the people as now provided by the city charter.

The question of preference in methods of choosing inspectors of election, whether by popular vote or by appointment, is a comparatively minor one at this juncture; the important and pressing question now being whether the law-making power will legislate one set of inspectors out of office and another set into office upon the eve of an election and concededly with the result of influencing the election.

The Executive does not feel that he can with propriety be a party to any such legislation. Whatever merits the proposed change of law may have in its abstract features it is an unjustifiable interference three or four days before a local election.

The inspectors of Cohoes served at the general election of 1891 and so far as I know their discharge of duty gave general satisfaction. They have already completed the registry of voters preparatory to the charter election.

They are presumably familiar with their duties and ought to be better qualified than newly appointed officers to discharge these duties satisfactorily. The law moreover guarantees an honest election and makes ample provision for watchers to see that inspectors do not abuse their official trusts and privileges. There is already every proper legal safeguard for an honest count.

But besides working injustice by its ill-timed provisions, the bill violates the principle of Home Rule. It is opposed by the mayor of Cohoes and by the common council. It is opposed by a large portion of the citizens. It is not a subject of controversy merely between factions of the Democratic party in Cohoes; for it is opposed as unjust by the chairman of the Republican city committee, and by the member of the Republican State committee for that district, both of whom unite in a letter to me asserting that in their opinion 'no Republican in Cohoes favors the bill.'

Under such circumstances every fair-minded man must concede that this proposed legislative interference with municipal politics in Cohoes is both unbecoming and unjust. The people of that locality should be allowed to elect their officers and to settle their factional troubles in their own way and without direction or threat, through the medium of the Legislature, from citizens either of Albany or of Troy. The people of the State expect greater things of the law-making power than to jeopardize needed legislation by allowing itself to be used for no worthier purpose than the stirring up of strife between political leaders."

The bill was not passed over the veto.

April 13. To the Assembly:

Veto of a bill entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim of Christian

Bassler against the State for injuries received at Messina Springs as a member of the National Guard, and to make an award therefor."

"The bill is defective in form, failing as it does to indicate why recourse to the Board of Claims is necessary. It is probably also unconstitutional in fact, inasmuch as the claim, as between individuals, would now be outlawed."[h]

The bill was not passed over the veto.

April 13. To the Assembly:

Veto of a bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Joseph Milliete, against the State, for arrears of pay as captain of Company C, First United States Lancers Volunteers, and as captain of Company I, Ninth New York Cavalry."

"The measure does not show on its face whether the claim is one which, as between citizens of the State, would not be barred by lapse of time; while external evidence, readily accessible, shows that the claim is thus barred, more than six years having elapsed from the time it accrued. The bill is therefore unconstitutional under art. VII, section 14, of the Constitution."

The bill was not passed over the veto.

April 13. To the Assembly:

Veto of a bill entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim of Carter H. Morgan against the State for damage to his property caused by the State in the construction of a channel from (part of the way), Oil Creek reservoir, town of Cuba, New York, to the Genesee Valley canal and for work and labor done for the State."

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[h] Const. 1846, art. 7, § 14, added 1874.

"Legislation of this sort ought to indicate on its face in some way the reason for its existence. Under existing general laws the State Board of Claims already has jurisdiction over claims of this nature, and, so far as appears from the face of the bill, over this particular claim. If for any reason, as for failure to file the claim within the time limited by law, or otherwise, remedial legislation is necessary, the particular defects sought to be cured should be expressly stated in the bill, so that the Legislature and the Executive may know precisely what the measure purports to accomplish."

The bill was not passed over the veto.

April 13. To the Assembly:

Veto of a bill entitled "An act to amend section six hundred and sixty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter eighty-four of the laws of eighteen hundred and eighty-seven, relating to tenement houses."

"The chief provision of this measure is that which changes the definition of a tenement house from a home for three families or more to a home for four families or more, or from a home containing more than two families on a single floor to one containing more than three families on a floor. The effect would be to exclude from supervision by police and health officers in New York city all houses containing less than four families. It is estimated that this exclusion would comprise 5,000 houses, and would leave without sanitary supervision a class of buildings shown by official reports to be most in need of it.

This is a backward step in the line of tenement house reform and I am unable to assist it by my approval of the bill. The measure is opposed by the local board of health, by the Charity Organization Society, by the Sanitary Aid Society, by the State Charities Aid Association, and by other philanthropic organizations. Its enactment would be especially detrimental to the poorer masses and would seriously jeopardize public health. No satisfactory reason has been offered why the bill should become a law, and I am convinced that its provisions are both unwise and dangerous."

The bill was not passed over the veto.

April 18. To the Senate:

Veto of a bill entitled "An act for the relief and support of paupers."

"An act embodying essentially the same features that this bill contains, only less radical — namely, chapter 546 of the Laws of 1885 — was practically repealed by the amendatory act of 1888 (chapter 486) after three years' trial, because it was found to be unsatisfactory in its operation and productive of vexatious litigation between the authorities of one town or county and those of another town or county. There seems to be no general sentiment in favor of this bill, while I have received many protests against its enactment, and I am bound to assume on the face of the testimony before me that there is no public demand for a return to practically the same law that existed from 1885 to 1888. While I am willing to admit that the existing law relating to the care of non-resident paupers is not sufficiently explicit and could be wisely amended, I am of the opinion that the proposed bill is too sweeping in its provisions and would make unnecessary controversy between counties as to their respective responsibility."

The bill was not passed over the veto.

April 18. To the Assembly:

Veto of the following items in the appropriation bill, chapter 324.

"For the expenses of the board of Port Wardens, four thousand five hundred dollars."

This item is objected to and not approved. Previous to 1891 these expenses were paid out of the receipts of the Port Wardens from the official fees, etc. It was urged at that time as a reason for putting the burden of their payment upon the State that the receipts of the office had been decreasing in years past and were insufficient to pay expenses and at the same time to leave as large an amount as previously to be divided among the Port Wardens for compensation. Nevertheless I am informed that the receipts from fees are sufficient still to yield generous compensation for the services rendered, and the numerous applications for appointment to the office indicate quite clearly that the emoluments are eagerly sought and the duties not regarded as being sparingly rewarded. I do not think it just for the State to bear this expense until it can be demonstrated beyond question that the revenues of the office are insufficient to allow proper compensation to the incumbents.

' For books, serials, binding and other proper expenses of maintenance of the State Medical Library, pursuant to chapter three hundred and seventy-seven of the laws of eighteen hundred and ninety-one, two thousand dollars.'

This item is objected to and not approved. It is unconstitutional. The Constitution provides that " the capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate."[1] This appropriation is payable from the capital of the United States deposit fund and is therefore unlawful.

I congratulate the Legislature upon the care with which this appropriation bill has been drafted. While the cost of government must necessarily increase with the increase of the State's resources, its variety of interests and its population, a due regard for economy seems to have been exercised in fixing the appropriation herein contained, and with the exception of the items above enumerated no unnecessary or unwise items seem to have been inserted. Such economy and regard for public interest deserve, as I have no doubt they will receive, cordial approbation from the people, and I take pleasure in recognizing the fact in this official communication."

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[1] Const. 1846, art. 9, § 1.

The items were not passed over the veto.

April 18. To the Assembly:

Veto of a bill entitled "An act to establish a State printing office and to create the office of Superintendent of State Printing."

"In accepting a nomination to the high office which I have the honor to hold I promised, if elected, to give the State a plain business administration. I would be false to that pledge and untrue to my own convictions if I were to approve in my official capacity a measure which involves what I believe to be an unsound business proposition and a menace to honest and economical administration.

As guardians of the people's interests and as custodians of their money, the only legitimate question before the Legislature and the Executive in the consideration of this bill is whether the establishment of a State printing office will promote economy in the public expense and improve official service. The latter result would depend almost wholly upon conditions impossible now to predicate, but the matter of expense can be estimated with reasonable accuracy, and after a careful investigation of the question and with the fullest disposition to reach the actual facts I cannot avoid the conclusion that the assumption of this undertaking by the State would mean the imposition of greater burdens year by year upon the taxpayers without any corresponding benefit.

The State printing is now let by contract to the lowest bidder. The competition among bidders is brisk and results in comparatively low prices for the work done. If the contracts are not fulfilled the State has an immediate remedy. The contractor, and not the State, is responsible for loss. The system has worked satisfactorily and in recent years, at least, has suffered no abuse.

Clearly the only advantage, as regards expense, in the State's establishing and maintaining a public printing office would be to save the margin of profit which now goes to the individual contractor. That profit is not large, and in my opinion would be more than wiped out by the increased cost of maintaining a State establishment.

There are several considerations which support this view. In the first place the capital necessary to be invested would be large. The hundred thousand dollars appropriated by this bill is not, in my judgment, sufficient, and annual appropriations would be necessary for improvements, repairs and new machinery. The element of competition being removed, moreover, the stimulus to economy would not exist. The Legislature would regulate the hours of labor and perhaps the rate of wages; while political influences would affect the employment and discharge of workmen. Again, the demand for printing is comparatively small except when the Legislature is in session, and while a large printing plant would be essential during five or six months in the year, a small one would answer all present purposes during the remainder of the year. This would practically impose upon the State the unnecessary expense of maintaining a large plant all the year round.

But beyond all this the establishment of a State printing office would encourage extravagance in printing. The experience of the government printing office at Washington demonstrates this very clearly, if indeed demonstration be needed to convince anybody of so apparent a result. Two influences would be constantly working to that end — the pressure from various sources, official and unofficial, to have printing done at public expense, and the political pressure exerted by friends of the employes to increase the amount of work to be done and therefore the number of persons to be employed.

The Legislature will not forget that in the message which I had the honor to submit at the beginning of the present session I called attention to the rapid increase of new offices, bureaus and commissions in connection with the State government, and pointed out that the annual cost of this gradual extension of State functions had increased in ten years from $18,000 to $800,000; and I said at that time in protesting against this tendency: 'The closest scrutiny should be applied to every demand for the creation of any additional office, and it should not receive legislative sanction until its need is established beyond question. * * * Lavish use of public money is a dangerous foe to public morals and to official administration.'

The provisions of the bill before me, if my predictions as to their effect are well founded, are certainly inconsistent with that expression of what should constitute public policy. I have always believed firmly in the principle that the State should do nothing that individual enterprise could accomplish as well. Individual enterprise in my opinion can do the State's printing more economically and as satisfactorily as the State could do it, and for this reason I am unable to approve this measure.

I am aware that in some quarters the bill is urged not so much from a conviction that it would be in the public interest, as from a belief that it would improve the condition of one class of workers, namely, those employed in the art of printing. To their credit be it said that no such reason has been presented to me by any typographical union in the State for the enactment of this bill. As a member of one of the first labor organizations in the State and as an earnest friend of honest labor I have had too intimate acquaintance with the men of those organizations and I have too much respect for their intelligence to believe that they desire the

State to establish any bureau of government for their exclusive benefit. Clearly any measure whose enactment is urged upon the ground that it will help one class of workers at the expense of other classes is un-American and un-democratic. It is an injury to every laborer not of that favored class, and to that extent promotes industrial discontent. If the State is to legislate in the particular interest of typesetters, it cannot consistently refuse to legislate in the interest of other men who are engaged in industries which furnish labor or supplies to the State, and the logical sequence of a bureau of printing would be a bureau of building supplies, or a bureau of school furnishings. By such undertakings the State invades the domain of private industry, and instead of conferring benefits creates that industrial disturbance which always follows artificial interference with the natural laws of business.

A State printing establishment would create no new employment except in so far as it undertook extravagant and unnecessary work, it could create no higher wages without the increase coming out of the pockets of the people. Whatever benefits it might confer upon the few people to whom it gave employment would be burdens imposed upon the large majority of taxpayers."

The bill was not passed over the veto.

April 20. To the Senate:

Veto of a bill entitled "An act to amend chapter one hundred and ninety-nine of the laws of eighteen hundred and eighty-seven, entitled 'An act to amend chapter seven hundred and twenty-seven of the laws of eighteen hundred and sixty-six, entitled "An act to consolidate school districts numbers one, three and fifteen, and part of district number two of the town of Mount Morris, county of Livingston and State of New York, into one school district."'"

"This bill purports to amend section 5 of an act which has but three sections. It amends section 5 of chapter 199 of the Laws of 1887, when it was evidently intended to amend section 5 of chapter 727 of the Laws of 1866 as amended by section 1 of chapter 199 of the Laws of 1887. Moreover section 5 of the act of 1886 was again amended by chapter 267 of the Laws of 1888, and even if this bill should be construed according to its intention instead of its language, it seems in amending the amendatory act of 1887 to ignore the existence of the further amendatory act of 1888, which appears to cover substantially the same ground intended to be covered by this bill.''

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of a bill entitled "An act to provide for the acquisition by the people of the State of New York of sufficient land or right therein to construct an outlet sewer from the State Asylum for Insane Criminals at Matteawan to the Hudson river, and making an appropriation therefor."

'' The bill is defective in the provision which requires that proceedings for the condemnation of necessary lands to be bought shall be in accordance with the requirements of chapter 565 of the Laws of 1890. The reference should have been to chapter 95 of the Laws of 1890. There is no provision regulating condemnation proceedings in chapter 565.''

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of a bill entitled "An act to provide for an evening high school in the city of New York."

'' This bill is opposed by all the commissioners of education in the city of New York, and the president of the board has joined with the city superintendent of schools in requesting me to withhold my signature from the measure.

Chapter 34 of the Laws of 1889 already authorizes the board of education to establish additional evening high schools when in their judgment there is need of additional educational facilities of this kind, and there is no necessity therefore for the enactment of this bill."

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of a bill entitled "An act providing for the appointment of a recorder for the village of Norwich, New York, and prescribing his powers and duties."

"The bill is probably in violation of section 16, article III of the Constitution, inasmuch as the measure embraces both the appointment and election of a recorder for the village of Norwich, while the title only relates to the appointment of such an officer.

So far as the measure itself is concerned its object can already be accomplished by section 75 of the Code of Criminal Procedure."

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of items in the supply bill, chap. 356.

"'For the Comptroller, for the payment of fees and disbursements of commissioners appointed by the Governor, and of stenographers and their disbursements, and other necessary expenses in the investigation of charges against public officers, the sum of four thousand one hundred and fifty dollars, or so much thereof as may be necessary, to be paid upon vouchers therefor to be approved by the Comptroller.'

Chapter 323 of the Laws of 1874 provides that, in all proceedings before the Governor for the removal of any county officer upon charges preferred against him, all the costs and expenses thereof, including those of taking and printing the testimony therein, shall be a county and not a State charge. I see no reason for departing at the present time from this established policy of the State, and I am unable therefore to give this item my approval.

'For repairs and betterments of State arsenals, armories, and State camp, the sum of twenty-five thousand dollars, or so much thereof as may be necessary.'

I am informed that there is an unexpended balance of considerable amount remaining in the treasury from the appropriation for this purpose last year and that no additional amount is absolutely necessary for the next fiscal year. The item is therefore objected to and not approved.

"For the Adjutant-General, for improvement of the State rifle range at Creedmoor, for repairing fences and building new ones, repairing old targets, pits and butts and completing new, and building additional ones and for grading grounds and removing buildings, the sum of ten thousand dollars.'

This item is objected to and not approved for the reason that the appropriation is not deemed expedient at the present time.

'For Forest Commission, for reimbursing its maintenance fund for moneys expended therefrom, for counsel fees and printing its annual report for eighteen hundred and ninety-one, the sum of four thousand dollars, or so much thereof as may be necessary.'

This item is objected to and not approved for the reasons stated in the objection to the last preceding item.

'For the three State boards of medical examiners for traveling expenses in attending necessary meetings, payable on vouchers approved by the Comptroller, twelve hundred dollars, or so much thereof as may be necessary, to meet the deficiency caused in the provision for such expenses by chapter three hundred and eleven of the laws of eighteen hundred and ninety-one exempting medical students from the payment of examination fees.'

The information before me does not justify my approval of this item. The intention of the law creating State boards of medical examiners was not to involve the State in any expense. The expenses of the medical examiners were to be paid out of the examination fees, and the examiners were to be the beneficiaries of all surplus receipts. While the amendatory act of 1891, chapter 311, may have diminished the amount of fees received, I am not convinced that any temporary deficiency should be paid out of State revenues. The item is therefore objected to and not approved.

'For the State Asylum for Insane Criminals at Matteawan, to be expended under the direction of the Superintendent of State Prisons, for wagon scales, shelter houses, walks, farm barns, road making and other improvements, the sum of eleven thousand four hundred dollars.'

This item is objected to and not approved because the expenditure is deemed excessive at the present time.

'For the Buffalo State Hospital, to be expended under the direction of the local board of managers, for the erection of an additional ward adjacent thereto, and west of the ward recently built for the accommodation of two hundred patients, the sum of two hundred thousand dollars; no part of this appropriation shall be expended, except for procuring plans and specifications, approved or to be approved by the Comptroller, until a contract or contracts shall have been entered into by the lowest responsible bidder or bidders, after suitable advertisement for the completion of the work contemplated and the purchase of materials therefor, within the limit of this appropriation;

and the contract shall provide that not more than eighty-five thousand dollars from this appropriation shall be required to be paid thereon by the State within one year from the date of such contract; and for installing an electric light plant, and fixtures for the entire hospital, the sum of sixteen thousand dollars.'

I am informed that this appropriation can be deferred until some other year without embarrassment to the institution or detriment to public interests. In view of the large appropriations for hospital purposes, which are absolutely needed during the present year, this appropriation, in my opinion, should be postponed until such time as the State shall be better able to incur the expense.

'For the Hudson River State Hospital, for installing an electric light plant, ten thousand five hundred dollars.'

While the introduction of electricity in the place of gas as a means of illuminating public buildings, and especially public hospitals, would probably be advantageous to those institutions, I do not think an appropriation for this purpose is advisable at the present time. For this reason the item is objected to and not approved.

'For the Hudson River State Hospital, for fire protection in new building of the male department, ten thousand dollars.'

This building, I am informed, does not exceed two stories in height. The appropriation for fire protection is not approved by the Commission in Lunacy who have made an investigation into the necessity for the desired expenditure, and I accept their judgment in the matter and interpose my objection to the item becoming law.

'For the Binghamton State Hospital, to be expended under the direction of the local board of managers, for installing an electric light plant, fifteen thousand dollars.'

This item is objected to and not approved for the reason stated in the objection to a similar item for establishing an electric light plant in the Hudson River State Hospital.

'For the Binghamton State Hospital, for three hot water generators, thirteen hundred and fifty dollars; for erecting cottage for engineer, fifteen hundred dollars; for building shed for housing dry lumber, five hundred and fifty dollars.'

These expenditures are not considered necessary by the State Commission in Lunacy and are therefore disapproved.

'For the Binghamton State Hospital, for covering for steam pipe, two thousand dollars.'

This item is believed to be excessive. I am informed by those who have made a special investigation of the work required, that half the amount would have been sufficient for the purpose. The item is therefore objected to and not approved.

'For the Custodial Asylum for Feeble-Minded Women, at Newark, to be expended under the direction of the local board of managers, for the purchase of two lots adjacent to the grounds of the asylum, with buildings thereon, five thousand two hundred dollars, or so much thereof as may be necessary, to be approved by the Attorney-General as to title and by the Comptroller as to price.'

While this appropriation may be desirable, there is no pressing necessity for it at present, and, in my judgment, it can wisely be deferred until some other year. The item is therefore disapproved.

'For the New York Institution for the Blind, at Batavia, for enlargement of its collection of plaster casts and other forms for object teaching, twenty-five hundred dollars.'

This item is objected to and not approved for the reason stated in the objection to the last preceding item.

'For securing additional instruction in the several State prisons, fifteen hundred dollars, or so much thereof as may be necessary, to be expended under the direction of the Superintendent of State Prisons.'

This item is objected to and not approved for the reason that the expenditure is not deemed necessary or expedient at the present time.

'For the Auburn Prison, to be expended under the direction of the Superintendent of State Prisons, for the construction of a stone warehouse and the purchase of materials therefor, and for the employment of foremen in the work of quarrying the stone and the construction of the building, seven thousand five hundred dollars, or so much thereof as may be necessary.'

This item is objected to and not approved. The interests of the State have required so many large appropriations at the present session of the Legislature that it is believed to be wise to defer any expenditure for this purpose until some other time.

'For repairs of highways and bridges on the Onondaga Indian reservation, to be expended under the direction of the Superintendent of Public Works as follows: On the road and bridges known as the Cardiff road, twelve hundred dollars; on the road and bridges known as the Quarry road, four hundred dollars, and on the road and bridges known as the South Onondaga road, four hundred dollars.'

I am convinced that these appropriations can be dispensed with during the present year, and I therefore withhold my approval from them.

'For a fish-way in the dam at Ogdensburg, eight thousand dollars; for a fish-way in the dam at Rossie, three thousand dollars; for the purchase of the dam at Pope's Mills, three thousand dollars, or so much thereof as may be necessary; for cleaning and deepening the Indian river from Rossie to Black lake, one thousand dollars; for cleaning and deepening Fish creek from Pope's Mills to Black lake, one thousand five hundred dollars; for cleaning and deepening Black creek from Butterfield lake to Black lake, five hundred dollars; the building of the fish-ways and cleaning and deepening of Indian river and Black and Fish creeks shall be done by the State Engineer and Surveyor under contract let, after advertisement, to the lowest bidder, and shall be completed by September first, eighteen hundred and ninety-two; the plan of the fish-ways shall be approved by the State Commission of Fisheries and the United States Fish Commissioner; the dam at Pope's Mills shall be purchased by the Attorney-General and if he can not agree with the owners on a price for the same he shall proceed to have it appraised and condemned for public uses. The moneys to be paid for building the fish-ways at Ogdensburg and Rossie, and deepening and cleaning the Indian river and Fish and Black creeks, shall be paid on the certificate of the State Engineer and Surveyor upon the warrant of the Comptroller, and the money to be paid for the dam at Pope's Mills shall be paid on the certificate of the Attorney-General upon the warrant of the Comptroller.'

I understand that these appropriations are to enable the State to co-operate with the Federal government in maintaining the fish hatchery near Theresa, for which Congress has already appropriated five thousand dollars. In my judgment, this undertaking, having been assumed by the United States government, should be left to the discretion of Federal authorities. I do not think the public interests require an appropriation from the State treasury of so large an amount as is included in the items above quoted, and they are therefore objected to and not approved.

'For carrying out the provisions of chapter three hundred and three of the laws of eighteen hundred and ninety-one, entitled "An act to promote wider extension to the people of opportunities for education," the sum of ten thousand dollars.'

Referring to the subject of university extension, I said in my annual message:

'For the first time in the history of the movement, however, direct government aid and encouragement have been given, in the statute which was enacted by the last Legislature of this State, authorizing the Regents of the University to act as the central head for the promotion of this work and appropriating $10,000 for their expenses.

'Inasmuch as this work is quite likely to be still further brought to your attention and another appropriation asked for, I do not hesitate to express my opinion that the assumption of this duty by the State was not only unwise in principle, but that if the movement is as successful here as it has been elsewhere it will involve the State in unreasonable obligations and be a constantly increasing object of public expense.

'I am aware that it has been the policy of the State to encourage higher education, and that public moneys have been appropriated for that purpose, but I respectfully submit that before the State should enlarge its field of usefulness in that direction — whatever views we may have as to the propriety of that enlargement — it should first perfect its system of common school education. * * *

'My fears that the State will eventually find the control and supervision of university extension an enormously expensive undertaking, wrong in principle because it taxes the majority for the benefit of the few, and indefensible as State policy except under the broadest view of public welfare, are based chiefly upon the testimony of those who have been most closely identified with the new movement and upon the tendency of the movement where it has been longest tried.'

In view of this expression of my convictions, which have not since changed, I am unable to approve this item. I sympathize thoroughly with the object of the so-called university extension movement; but I think it should be undertaken by individual enterprise rather than by the State.

'For the board of commissioners created by chapter two hundred and seventy of the laws of eighteen hundred and eighty-eight, for rip-rap work and other improvements upon the quarantine islands and other property of the establishment, to protect them against the encroachment of the sea the sum of forty-two thousand dollars.'

This item is objected to and not approved on the ground that the expenditure is not deemed expedient at the present time.

'For mounting, preserving and completing the collection of domestic fowls and arranging them in cases, in the agricultural museum, twenty-five hundred dollars.'

In my judgment this appropriation can be wisely deferred; I am unable, therefore, to give it my approval.

'For the Board of Port Wardens of the port of New York, for office expenses from April thirteenth, eighteen hundred and ninety-two, till the close of the current fiscal year, eighteen hundred and seventy-five dollars, or so much thereof as may be necessary.'

This item is objected to and not approved for the reason stated in my objection to a larger item for a similar purpose contained in the annual appropriation bill. I respectfully refer the Legislature to my communication upon that subject to the Assembly on the 16th instant.

'For the State Law Library at Binghamton, for the purchase of law books, to be expended under the direction of the Justice of the Supreme Court residing at Binghamton, twenty-five hundred dollars.'

This item is objected to and not approved for the reason that the appropriation is not deemed expedient at the present time.

'For the American Museum of Natural History in the city of New York, for continuing instruction in natural history and kindred subjects to the State normal schools, the Normal College of the City of New York, the Training School for Teachers in the city of Brooklyn, the teachers' institutes in the several counties of the State, and to the teachers in the common schools of the city of New York, Brooklyn and vicinity, during the year commencing January first, eighteen hundred and ninety-two, as provided by chapter forty-three of the laws of eighteen hundred and ninety-one, the sum of fifteen thousand dollars.'

Without expressing an opinion as to the value of the lectures provided for in this item, I do not think the State should incur so large an expenditure for that purpose at the present time. In the interest of wise economy, therefore, the item is objected to and not approved.

'For books, serials, binding and other necessary expenses of maintaining the State Medical Library, pursuant to chapter three hundred and seventy-seven of the laws of eighteen hundred and ninety-one, the sum of five thousand dollars.'

This item is objected to and not approved for the reason that the appropriation is not deemed advisable at the present time."

The items were not passed over the veto.

April 21. To the Legislature: Transmitting a proclamation convening the Legislature in extraordinary session on the 25th of April, at 8:30 o'clock p. m.

April 21. The Legislature adjourned without day.

MEMORANDUMS FILED WITH BILLS BEFORE THE ADJOURNMENT OF THE LEGISLATURE.

January 29.

Memorandum filed with Senate bill, chap. 7, amending the charter of Rochester. Approved.

" There seems to be practically no difference of sentiment in the city of Rochester as to the necessity and advisability of increasing the number of wards of that city. The only difference of opinion appears to have arisen over the method of the division of the city — whether the boundaries of the new wards should be established by the common council or by the Legislature. The charter of Rochester gives no authority to the common council to increase the number of wards, so that object can clearly be accomplished only by legislative act. The question of Home Rule is therefore not involved except as to the attempt on the part of the Legislature to fix the boundaries of the new wards. But this is within the undoubted province of the Legislature, and the bill takes the natural course of amending the city charter, in which the ward limits have always been defined. I perceive nothing radical, therefore, or in violation of the spirit of Home Rule in the features of the bill.

On the contrary I am convinced by the arguments presented at the hearing that the bill is an eminently fair and just one. While the division of the city into new wards undoubtedly creates some confusion and embarrassment, the good effects of the proposed legislation in my opinion outweigh the possible bad effects. The bill will give the city twenty supervisors instead of sixteen, and a predominance of representation therefore in the county board. This is as it should be, for now with a population of 140,-

000, and paying 72 per cent. of the taxes, the city is represented in the county board of supervisors with only sixteen supervisors, while the remainder of the county, with a population of only 55,000 and paying only 28 per cent. of the taxes, is represented by nineteen supervisors. The injustice of the continuance of such an unbalanced representation must be evident to everybody. Moreover this bill, if the board of supervisors discharges its duties fairly, will give the city of Rochester two out of the three members of Assembly to which the county of Monroe is entitled.

The bill will give the citizens of Rochester a greater voice in the management of their own affairs than they have at present. The division of wards seems to be so fair politically that neither party will have any particular advantage. It will be the fault of the people themselves if their chosen officers and representatives in the city government are not worthy men. Upon the whole, while there may be defects in the bill, I believe its provisions in the main will be advantageous to the city and I cheerfully give it my approval."

February 9.

Memorandum filed with Assembly bill, chap. 20, incorporating the State Executive Committee of the Y. W. C. A. Approved.

"This bill follows the general lines of Chapter 137 of the Laws of 1886, incorporating the Executive Committee of the Young Men's Christian Association. The general laws now in force do not provide for the incorporation of a committee of this nature elected by other corporations. This law and Chapter 137 of the Laws of 1886 are the only instances of this precise nature which seem to have arisen. It is urged and appears probable that no similar occasion will hereafter arise, and that a general law for future similar cases will not be necessary. In such exceptional cases special legislation is proper until the necessity of a general law becomes apparent, and I have, therefore, affixed my signature to the bill."

February 25.

Memorandum filed with Assembly bill, chap. 59, to incorporate the Commercial Travelers' Home Association of America. Approved.

"The object of this bill is praiseworthy. The only criticism of it is that it is special legislation which ought not to be enacted into law if there is any general law by which the same purposes may be accomplished. Against that criticism, however, it is urged that it is very desirable to postpone the location of the proposed home until after funds have been raised therefor. It is, therefore, difficult to comply with the terms of existing general laws which compel the specification of the county in which the certificate of incorporation should be filed. There are other less serious difficulties in the way of incorporating under general laws for the purposes desired, but sufficiently serious to raise argument as to whether the objects of this bill could be fully accomplished under such general laws. Under the exceptional circumstances of this case, I, therefore, approve the bill."

March 1.

Memorandum filed with Assembly bill, chap. 75, relating tc the police justice of Watervliet. Approved.

"As this bill was originally before me it not only extended the term of the police justice of the town of Watervliet but increased his salary from eighteen hundred dollars per annum to twenty-five hundred dollars. At my request the bill was recalled and amended in this latter feature so as to permit the people of the town of Watervliet, at their next annual town meeting, to determine whether this additional salary should be granted. The measure, therefore, in its present shape is unobjectionable, and I cheerfully give it my approval.

In my opinion the Legislature and the Executive should subject to particular scrutiny all bills to increase the salaries of public officers. These measures are seldom sustained by public sentiment, and their chief advocacy too often comes from the individuals in whose interest they are urged. Particularly is this true when the salaries to be raised are those of local officers. Out of one hundred and sixty members of the Legislature, only one is often familiar with the facts upon which the Legislature is asked to increase the salary of a local officer, and legislative courtesy permits that one member to be the arbiter of this legislation. Often the proposed measure is enacted before the taxpayers of the locality have either information or opportunity for a protest. Thus legislation becomes a farce, and local self-government is denied.

In this case, however, the people will have an opportunity to pass upon the question of increased compensation.

I believe that as a rule all salaries and compensation of local officers should be regulated by the localities themselves. The people who pay the taxes are the best judges of what that compensation should be. So far as is possible general laws should be passed relegating this jurisdiction to the proper local authorities. I am aware that in the case of county judges and surrogates this reform must be accomplished by constitutional amendment, but in most other cases it is believed that immediate relief to the Legislature and a greater measure of self-government to localities can be afforded by a wisely framed general statute having this relegation of authority as its object.

I express my views upon this subject thus clearly because I am informed that an unusually large number of bills for increasing the salaries of local officers is now pending in the Legislature. Complete assurance that these measures are for the public interest and are supported generally by the people of the locality is often difficult for either the Legislature or the Executive to get in the limited time at their disposal for the consideration of bills, and the safest and wisest course in my opinion is to relegate the matter to the county and municipal authorities, who are better informed and more directly responsible.

March 1.

Memorandum filed with Assembly bill, chap. 81, making an appropriation for work on the capitol. Approved.

" The Capitol has cost the people of the State up to the present time $18,592,243.58. It was begun in 1867, and the original plan called for an expenditure of only $4,000,000. This plan was soon set aside, however, for one providing a much larger structure. Appropriations have been made from time to time in such manner as not to permit of a continuous progress of the work of construction, and many of the appropriations were for specific work, not permitting of a simultaneous progression of the entire structure, which, together with the withholding of necessary appropriations, has been the cause of much delay and has added greatly to the cost of the completion of the building.

I am aware that the extravagant cost of the building has disgusted the people of the State, and additional appropriations for the purpose are regarded as a waste of public money, but I am convinced that the wisest economy now is to complete the building. I have received from the Commissioner of the Capitol a careful estimate that the total amount needed for the completion of the structure is $2,251,025.32. He estimates that he can economically expend $800,000 this year, $700,000 next year and the remainder, $750,000, the year following. This, by the expiration of my term of office as Governor, would bring about the completion of the building — a result which I am sure would give profound relief and satisfaction to the taxpayers.

Not to effect the completion of the building as speedily as possible will add greater burdens eventually to the people. The cost of the plant necessary to carry on the construction is fully $75,000. By reason of the frequent and long suspensions of the work and the failure to provide funds for proper care of the plant, it has been necessary to restore the plant almost wholly three times during the past nine years. This is not business-like. It is an inexcusable policy for either a State or an individual.

Believing therefore that regard for economy requires the avoidance of such mistakes in the future, and with the expectation that the appropriation contained in this bill will provide means for more than one-third of the cost of completing the building, I have given the measure my approval."

March 9.

Memorandum filed with Assembly bill, chap. 101, to incorporate the East River Bridge Company. Approved; and

Assembly bill, chap. 102, providing for rapid transit railways in New York. Approved.

'These bills provide for the carrying out of the very laudable purpose of increasing the facilities of communication between Long Island and the city of New York by the construction of one or two new bridges, with the necessary approaches and elevated railroad required for connection with existing transit lines in New York. So much-needed a public improvement, and one likely to be of such benefit to the material interests of the twin cities of New York and Brooklyn, deserves public encouragement and all reasonable relief at the hands of the law-making power from restrictions which might tend to prevent the consummation of the enterprise.

These measures, however, as they originally passed the Legislature, did not, in my judgment, sufficiently safeguard public interests and granted to the corporation formed privileges too extreme. At my suggestion they were recalled for amendment, and in my opinion are now fairly satisfactory in their terms. They protect municipal rights, provide compensation to municipal treasuries for privileges bestowed, and at the same time do not impose harsh or unreasonable restrictions.

The bills in their present shape exempt from taxation indefinitely the bridge structure or structures. They do not exempt from taxation the lands acquired by the corporation, the bridge approaches, or the structure of any elevated railroad owned, controlled, managed or operated by the corporation either in New York or Brooklyn. They do exempt the corporation itself, as distinguished from its property, from all taxation for a period of ten years, or until the gross earnings of either of the bridges shall average three thousand dollars a day for a period of six months. These exemptions may be called the encouragement which the Legislature offers the corporation for the construction of its bridges. They are not so liberal as the privileges surrounding the present Brooklyn bridge, with which the new bridge must compete.

In addition to this the Legislature has established in these measures the sound principle that if a public franchise, whose present value is apparently nothing or at most indeterminable, shall hereafter prove remunerative beyond ordinary returns on capital invested, the public, as represented by the municipalities affected, should be a sharer in that remuneration. Consequently these bills provide that whenever the average gross earnings of either of the bridges, or of the approaches, or of the railroads in connection with either bridge shall exceed four thousand dollars a day for a period of six months, the company shall pay into the municipal treasuries of New York and Brooklyn one per cent. of such gross earnings, and an additional one per cent. for each multiple of four thousand dollars of gross earnings a day. If the bridge enterprise therefore is the financial success which its critics, perhaps more than its promoters, predict, the two cities will share a constantly increasing percentage of its earnings.

The criticism has been made that it will be possible under these measures as laws, for the bridge company thus incorporated to build and maintain a cross-town elevated railroad in New York without constructing any bridge, and that for such a franchise the city is not sufficiently compensated. It is probably true that the company could exercise this privilege, but under its terms of incorporation it must complete one bridge within eight years or lose its corporate privileges. The elevated railroad franchise therefore would continue for only that period. But beyond this, the company would be compelled to give up the same percentages on its gross receipts as if the bridge were in operation. If such a far-sighted requirement had accompanied the grant of franchises to the existing elevated railroads in New York, the city would be receiving annually at this rate of compensation the enormous revenue of between six and seven hundred thousand dollars in addition to what is received from the general taxation of the company's property. Even the much-praised rapid transit act of last year, which the latter of these bills amends, had no such provision in it for securing municipal compensation, for it merely provided that the franchise to be disposed of should be sold at auction to the highest bidder, and it was left optional for the rapid transit commissioners to fix the terms, *i. e.,* whether the franchise should be sold for a lump sum or for an annual percentage of gross receipts.

I am not prepared to say that the operation of these bills as laws will not disclose defects which will need correction, but upon the whole I believe them to be reasonably satisfactory and I cheerfully give them my approval. Under constitutional provisions the company's charter can be amended or repealed by the Legislature at any time."[k]

March 30.

Memorandum filed with Assembly bill, chap. 202, relating to assessments and the evasion of taxation. Approved.

"This bill is intended to remedy an evil which has existed for a long time and which earnest legislators have sought in vain to correct in previous legislative sessions. Although the wealth of the State has been rapidly increasing, the assessed valuation of personal property has been steadily decreasing during the last two decades, until now it actually amounts to more than $70,000,000 less than the assessed valuation of personal property in 1871. The law has afforded a ready means for the escape of personal property from taxation by allowing deductions in the assessment of personal property for all 'just debts.' It is believed that debts have been temporarily contracted for the sole purpose of evading taxation and that by this device a large share of personal property has escaped any taxation whatsoever. This method of evasion has, I am informed, been sustained as legal by the courts, and assessors have had no remedy under existing laws.

The spirit of the law being plainly opposed to such evasions, it is therefore advisable to strengthen it so as to reduce such evasions to the lowest possible degree. This is what the measure before me aims to do. It prohibits the deduction from assessment of personal property of (1) debts for the purchase of non-taxable property; (2) debts on account of indirect liability as surety, guarantor, indorser, or otherwise; and (3) debts contracted for the purpose of evading taxation. This legislation ought to increase greatly the proportion of taxes yielded by personal property and to do much toward equalizing the burdens of taxation."

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[k] Const. 1846, art. 8, § 1.

This act was sustained in People *ex rel.* Bijur v. Barker (1898), 155 N. Y. 330.

April 4.

Memorandum filed with Senate bill, chap. 214, authorizing women to vote for school commissioners, which became a law without the Governor's approval.[21]

"This bill extends to women the privilege of voting for school commissioners. I am not entirely convinced that the measure is constitutional, but the weight of legal authority seems to sustain its constitutionality, and I have therefore allowed the bill to become a law.

I am the more constrained to this course by reason of the fact that for twelve years there has been in our statute books a law declaring no person ineligible to vote at school meetings by reason of sex, and that although this privilege has been constantly enjoyed by women during that time, the law's constitutionality has not been questioned, so far as I am aware, by any judicial decisions, or by any official opinions of the Attorney-General. Attorney-General Russell, in an official opinion given July 31, 1883, said, referring to this statute, (Chapter 9 of the Laws of 1880) and to the subsequent one, Chapter 492 of the Laws of 1881: 'The constitutionality of these statutes has always been assumed. No question in that respect is before me and none will be discussed.' Attorney-General Tabor, in an official opinion given January 20, 1891, said of these same laws: 'So far as I know it has been assumed by everybody that this provision of the statute did not violate the Constitution,' but he did not further indicate his opinion upon the question. The bill before me in effect merely extends the provisions of these laws, and inasmuch as they have not, to my knowledge, been declared unconstitutional by our courts it would be a somewhat unwarrantable assumption on the part of the Executive to refuse to allow the measure to become a law upon the ground of its alleged unconstitutionality.

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[21] This act was held unconstitutional in Re Gage (1894), 141 N. Y. 112. See also Re Cancellation of Names (1893), 5 Misc. 375; Re Woods (1893), 5 Misc. 575; Re Inspectors of Election (1893), 25 N. Y. Supp. 1063.

In the Gage Case, the court said that the office of school commissioner was made elective by the people, which meant that incumbents of the office could be chosen only by electors qualified under the suffrage section. The Legislature could not constitutionally include women in the class of qualified electors.

So far as the constitutional point is involved, I presume it must be considered as settled that the clause in the Constitution (Art. II, Sect. 1) which provides that 'every male citizen * * * * shall be entitled to vote * * * * for all officers that now are or hereafter may be elective by the people' prohibits women from voting for any of the officers therein referred to. The Supreme Court of Illinois, in the case of The People vs. English, decided January 18, 1892, and reported in 29 N. E. Rep. 678, alludes to the authorities upon this subject as follows:

'In Cooley's Constitutional Limitations (page 599) it is said: "Whenever the Constitution has prescribed the qualifications of electors, they cannot be changed or added to by the Legislature, or otherwise than by an amendment of the Constitution." In McCafferty vs. Guyer, 59 Pa. St. 109, it was said by Strong, J.: "It has always been understood that the Legislature has no power to confer the elective franchise upon other classes than those to whom it is given by the Constitution, for the description of those entitled is regarded as excluding all others." But it is useless to multiply citations, for the books and the opinions in deciding cases are full of like statements of the law. We understand the law to be as is stated in the above quotations, and that such law is applicable, at least, in all cases of an election held for an officer who is mentioned or provided for in the Constitution, unless it is indicated by that instrument that such officer may be otherwise elected or appointed, or that the Legislature or some other body may determine by whom such officer may be elected or appointed. It may be that it is competent for the Legislature to provide that women who are citizens of the United States and over 21 years of age, may vote at elections held for school directors and other school officers who are not mentioned in the Constitution; but that question is not before us for decision, and we therefore express no opinion in regard to it.'

The General Term of the Supreme Court of this State in People vs. Barber, 48 Hun, and the Circuit Court of the United States, in U. S. vs. Anthony, 11 Blatch., 200, both cases arising under our State Constitution, are to the same effect. Acting upon the distinction indicated in the last sentence above quoted from the Illinois case, the Legislatures of New York, Michigan, Kansas and Nebraska, under substantially similar constitutions, have expressly conferred upon women the right to vote for school district officers. The courts of last resort in each of the States of Michigan, Kansas and Nebraska have upheld such legislation as constitutional.

Belles vs. Burr (1889), 75 Mich., 1.
State vs. Cones (1884), 15 Neb., 44.
Wheeler vs. Brady (1875), 15 Kans., 26.

The Illinois Supreme Court, in the case above cited, held that the statute of that State, authorizing women to vote for school commissioner, was unconstitutional inasmuch as the Constitution of that State expressly mentions the office of school commissioner. The office of school commissioner is not recognized by the Constitution of this State, but is included among the 'other officers' referred to in Art. X, Sect. 2, of the Constitution as follows: 'All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.'

School commissioners are chosen by school commissioner districts, and are neither county nor town officers. When the Legislature by virtue of Art. X, Sect. 2, makes school district officers and school commissioners 'elected by the people,' it may be argued that they are officers 'elective by the people' within Art. II, Sect. 1 of the Constitution, for whom women are thereby prohibited from voting. Yet the Kansas Constitution contained substantially similar clauses when the decision above referred to was made by the Supreme Court of that State. The Constitutions of Michigan and Nebraska are so nearly like those of New York and Kansas in this respect, as to make the reasoning of the Michigan and Nebraska Supreme Courts in favor of the constitutionality of such legislation under their Constitutions, equally applicable to the legislation proposed by this bill under our Constitution. There seems to be no ground for distinction in this respect between officers of a school district and officers of a school commissioner district. For over ten years the laws of this State allowing women to vote for officers of a school district have stood without serious criticism either upon grounds of constitutional or public policy. I can see no basis for more serious objection to the extension of the right to vote for officers of a school commissioner district."

April 4.

Memorandum filed with Senate bill, chap. 215, to increase the number of justices of the Supreme Court by constitutional amendment, which became a law without the Governor's approval.[22]

" The constitutional amendment whose submission to the people is herein provided for has been duly agreed to by two successive Legislatures, those of 1889 and 1890. It is as follows:

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[22] The amendment, which provided for increasing the number of justices of the Supreme Court, was submitted to the people at the general election in November, 1892, but was not approved.

'Resolved, (if the Senate concur) That the sixth article of the constitution be amended by adding thereto the following section:

Section 29. The Legislature at the first session thereof, after the adoption of this amendment, shall provide for the election at the general election next after the adoption of this amendment by the electors of the first and second judicial districts of not more than two Justices of the Supreme Court in addition to the Justices of that court now in office in each of said judicial districts, and one Justice of said court in addition to the Justices of that court now authorized by law to be elected in each of the following judicial districts, namely: The third, fourth, fifth, sixth, seventh, and eighth judicial districts. The Justices so elected shall be invested with their offices on the first Monday of January next after their election.'

The wording of the amendment has been criticised as faulty. It has been asserted that if the amendment were to be adopted by the people its provisions would require the Legislature to provide for the election of one additional Justice of the Supreme Court in each of the third, fourth, fifth, sixth, seventh and eighth judicial districts, not by the electors of each of those districts, but by the electors of the first and second judicial districts. It is not to be presumed that this was intended by the Legislature. Yet in spite of the ambiguous or faulty construction of the proposed amendment, to which publicity has been given heretofore, the Legislature of 1891 passed a bill for its submission to the people, which was vetoed on the ground of defects in the bill itself, and the present Legislature has now provided again for the submission, in a bill which is unobjectionable in form. In view of these circumstances the Executive does not feel justified in returning the bill to the Legislature without approval, but has allowed it to become a law, pursuant to the Constitution, without his signature."

April 15.

Memorandum filed with Senate bill, chap. 323, to incorporate the General Electric Co. Approved.

"The approval of this bill must not be considered as establishing a precedent for future legislation of this character. The measure is approved because it is claimed that its objects cannot well be secured under general laws, and because its approval will keep within the State a corporation which professes to be ready to invest a large amount of capital and which, without the concessions allowed by its proposed charter, would be incorporated under the laws of New Jersey. The reduction of tax for incorporation from one-eighth of one per cent. upon capital stock to one-twentieth of one per cent. is to make the tax uniform with that required by the law of New Jersey, so far as this corporation is affected.

The other concessions in the bill are mainly such as have already been incorporated in the amendments to the Stock Corporation law which are now pending in the Legislature and which seem likely to be passed before the close of the session. These indicate a growing sentiment in favor of less severe restrictions in our corporation laws to the end that the investment of capital may be encouraged within the State. This is in line with the recommendations of my annual message and reveals a tendency which in my judgment is wise and will result beneficially to industrial and commercial interests."

April 20.

Memorandum filed with Assembly bill, chap. 340, amending the charter for railways in upper New York city. Approved.

"The provisions of this bill have been so variously misconstrued that a statement of what it does is deemed appropriate at the present time.

The bill grants no new charter; it merely amplifies the powers of a company incorporated by special legislative act in 1863.

The original charter, as at various times amended, has given the company a franchise to lay tracks on certain streets and avenues north and east of the Harlem river, in what is popularly known as the 'annexed district.' The company by virtue of these prior acts can charge certain rates of fare, and is compelled to keep the surface of the streets inside the rails and for one foot outside in good and proper repair, although there is no requirement to pave the same. The company is not required to pay any proportion of its earnings to the city treasury and is subject to practically none of the restrictive provisions which apply to street railroad corporations organized under later statutes.

By this additional legislation the company gains chiefly three objects — it may consolidate its capital stock and property with the capital stock and property of any other street surface railroads in the annexed district of New York and in Westchester county, and with any street railroad whose southern terminus is not more than one thousand feet south of any bridge across the Harlem river; it may increase its capital stock to an amount not exceeding two million dollars; and it may increase its issue of bonds. The first of these privileges can only be obtained by special legislation.

As against these privileges the Legislature has imposed the following conditions:

1. That the company shall assume and perform all conditions, burdens, obligations and liabilities, imposed by law or contract upon any railroad company with which it shall consolidate or which it shall buy or lease.

2. That when the gross earnings of the company or of its lessees shall average $1,700 a day for a period of six months it shall pay annually to the city of New York one per cent. of its total gross earnings thereafter, and an additional per cent. for every multiple of $1,700 of daily gross earnings.

Thus by this bill the company is not empowered to lay a single foot of additional track; its extensions must all be subject to the provisions of existing general laws. Moreover, instead of the city's receiving no remuneration for the privileges granted, as at present, a constantly increasing remuneration will be received under the provisions of this bill, should the railroad in time prove to be a sufficiently profitable enterprise.

In addition to these features of the bill the company is exempted from the provisions of the Cantor act, requiring the sale of franchises at public auction to the highest bidder; from the provisions of the general surface railroad law relative to payment of a percentage of gross receipts to the city, and from section 98 of the general railroad law relative to repair of streets, etc. But the original company was not restricted by any such provisions as these and it is difficult to see how in justice such restrictions should be imposed merely as a consideration for the privileges sought by this measure. But the Legislature has in spite of the original exemptions imposed a moderate condition in the way of percentage of gross receipts, and also in the matter of repair of streets.

I am convinced that the legislation desired will be of great benefit to the annexed district of New York in affording means of transit in a territory which has suffered greatly from lack of sufficient means of communication, and I believe it is good public policy to encourage such laudable enterprise. The measure in my judgment is well-guarded, and whatever special privileges it may seem on superficial examination to bestow will be found upon closer scrutiny to be the grant of old legislative acts and not of this new law."

This act was sustained in Bohmer v. Haffen (1900), 161 N. Y. 390.

THIRTY-DAY BILLS.

April 30.

Memorandum filed with Assembly bill, chap. 400, amending the Election Law for New York city. Approved.[23]

"This bill accomplishes the desirable object of making the election law for New York city substantially uniform, as regards inspectors of elections, with that prevailing elsewhere in the State.

Except in the cities of New York and Brooklyn the law everywhere provides, either by appointment or by election, for three inspectors of election in each election district, two of whom shall belong to the majority party and one to the minority party. In New York city there are four election inspectors, two of whom belong to one party and two to the other.

The law for the remainder of the State has existed for many years and causes no opposition. Successive Legislatures have not changed its essential features. Public sentiment generally upholds it.

If it is a good law for the rest of the State, it ought to be a good law for New York city. Election laws ought as far as possible to be uniform throughout the State.

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[23] Brooklyn had bi-partisan election boards under an act passed in 1880, chapter 528, and subsequent statutes. An act passed in 1894, chapter 348, provided for bi-partisan election boards in all other parts of the State, including towns, the city of New York and other cities except Brooklyn, which already had bi-partisan election boards under prior statutes. This policy of bi-partisan election boards was made permanent by the Constitution of 1894, article 2, section 6, which required election boards to be composed of an equal number of members from each of the two principal political parties, as shown by the result at the last preceding election.

Uniformity in such an important particular as that of election inspectors is desirable as a matter of political justice. I make no excuse for referring to political parties in discussing a measure of this kind. The fact exists, and must be plainly recognized, that the law at present discriminates between the city of New York, whose vote is overwhelmingly Democratic, and the remainder of the State, whose vote is Republican. The minority party in New York is given equal representation in boards of election inspectors with the majority party; while outside of New York (and Brooklyn) the minority party has only one-third the representation allowed to the majority party. No good reason exists why a different principle should be applied to a Democratic community than is applied to a Republican community. If boards of inspectors, a majority of whom are Republicans, are safe and economical in the Republican strongholds of the State, boards of inspectors, a majority of whom are Democrats, ought to be equally safe and economical in the Democratic strongholds.

I venture to say that it would be impossible to apply the system of boards of inspectors now in vogue in New York and Brooklyn to the remainder of the State. The opposition to such a change, both on political and economical grounds, would be sufficient to defeat it in the Legislature. The argument on the ground of economy is as applicable to the city of New York as to the rest of the State. The alternative, therefore, if our election laws are to be uniform, economical and just is to include the cities of New York and Brooklyn under the operation of the same principle which now applies to the remainder of the State.

The present system of boards of election inspectors in New York directly encourages an evil which has become as notorious as it is scandalous. At every election in New York at which Federal officers are chosen, the polls are manned by United States deputy marshals, who at the instigation of the Federal Supervisor of Elections, for purposes of political intimidation, make wholesale arrests of innocent persons offering to vote, compel them to give bail or go to Ludlow Street Jail, and thus, in most cases, effectually deprive them of the privilege of voting. Hundreds of such arrests are made on every election day and no prosecutions follow. It is a species of political tyranny which has rightly received the condemnation of all fair-minded persons, and flourishes chiefly because of a board of inspectors of whom half are ready to assist the work of intimidation by refusing to take the votes of persons thus challenged. Any law which, proper in other respects, will help to abolish this political iniquity, will always have my hearty approval.

It is perhaps significant of the insincerity of much of the opposition to this measure, that the persons who are most vehemently urging me to withhold my signature from the bill are the same persons who have for years defended the application of the same principle in the legislation affecting the remainder of the State, who are even now defenders of such methods of political intimidation as I have described above, and who only a short time ago were loudly urging the enactment by Congress of a Force bill which would place thousands of Federal deputy marshals at our polls and practically take away from the State the power to control her own elections. Partisanship which justifies such partisan methods and measures must be expected to resist a bill which reduces the political power and patronage of the minority party in the largest Democratic city of our country.

The reform electoral legislation in 1872, which this bill modifies, did not consist in establishing a board of election inspectors of whom two were of one party and two of another, but in its registration and other features. These provisions were the important safeguards of our elections and have remained so — strengthened from time to time as they have been by judicious amendments such as experience has found to be desirable. The system of registration in New York, whereby every voter must have his name on the books ten days before election and any citizen can ascertain the names and residences of all voters previous to the election, has been the most potent means of securing honest elections there during the last twenty years. It gives to each political committee sufficient opportunity for ascertaining the right of every man on the registry lists to cast his ballot. The mail carrier and the post-office, moreover, supplement the work of the political committee, for every letter or political circular which is mailed to persons on the registry lists and is returned because the person is not found at the residence given, suggests a fraudulent voter. In a city like New York, where the election districts are small and the population compact, it is an easy matter to verify the registry lists. But in addition to the safeguard afforded by the system of personal registration, there are ample provisions for securing an accurate count. The law prescribes the form of the ballot and the manner of counting, provides for watchers and imposes other requirements which make corruption by election officers well-nigh impossible. The mere fact that election inspectors are divided equally among the two great parties adds not an iota to the honesty of the elections. It was in a so-called non-partisan board of supervisors that the Tweed ring had its origin and began its plunder."

April 30.

Memorandum filed with Assembly bill, chap. 401, codifying the Excise Laws. Approved.

"This bill codifies the existing excise laws and puts them in comprehensible and better shape. While there may be defects in the bill, which will probably be developed after it goes into operation, the measure, upon the whole, is an improvement on the present law, and with that conviction I have given it my approval."

The saving clause in this bill was sustained in People v. Maxwell (1894), 83 Hun, 157.

Section 24, Am. 1893, chap. 481 (liquor licenses), was held unconstitutional in People ex rel. Decker v. Waters (1895), 4 Misc. 1.

May 3.

Veto of an item in Senate bill, chap. 431, making an appropriation for the Normal school at Cortland.

" '§ 3. In addition to the sum of sixteen thousand dollars appropriated by section two of chapter three hundred and one of the laws of eighteen hundred and ninety-one, for the purpose of making repairs upon and changes in the present buildings of the State Normal School at Cortland, the sum of nine thousand dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be expended by the local board of managers of the State Normal and Training School at Cortland with said appropriation of sixteen thousand dollars in making changes in and repairs upon the present buildings and additions thereto.'

This item is objected to and not approved for the reason that it is not deemed necessary to make the proposed expenditure at the present time."

May 4.

Veto of a Senate bill for the improvement of Conewango creek.[24]

" It is not clear that the work provided for by this bill is necessary for the protection of the public health as is implied by the title. On the contrary it is alleged that it is demanded by private interests only to the injury of others in the same locality.

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[24] An act passed in 1898, chapter 563, appropriated $25,000 for the drainage of the Conewango valley. Another act passed in 1900, chapter 448, appropriated $35,000 for the drainage of the Conewango Creek and its tributaries in certain towns in Chautauqua county.

If the claims made by the opponents of the bill are true, the bill is unconstitutional[1] and the work can be done under the general act of 1869.

If the people of the locality interested desire this improvement, no good reason appears why they should not pay for it themselves. Under all the circumstances it seems inadvisable to appropriate the public moneys for the purpose set forth in this bill."

May 4.

Veto of Assembly bill entitled "An act to amend chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for a police commission in the town of Flatbush, Kings county, and to establish a police force therein.'"

"It does not seem to occur to public officers asking for an increase in compensation, that they could by resignation allow their places to be filled by persons wholly competent and willing to serve the community at the rates fixed by law. There is seldom any difficulty in securing proper persons to fill all the offices in this State at the present salaries."

May 4.

Veto of Senate bill No. 108, entitled "An act to establish the compensation of the Surrogate and County Judge of Rensselaer county, pursuant to the fifteenth section of the amended sixth article of the Constitution."

"In a memorandum filed with Assembly bill No. 94, approved March 1st, 1892, after it had been amended in accordance with my suggestions, I said:

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[1] Const. 1846, art. 8, § 10, added 1874.

'In my opinion the Legislature and the Executive should subject to particular scrutiny all bills to increase the salaries of public officers. These measures are seldom sustained by public sentiment, and their chief advocacy too often comes from the individuals in whose interest they are urged. Particularly is this true when the salaries to be raised are those of local officers. Out of one hundred and sixty members of the Legislature, only one is often familiar with the facts upon which the Legislature is asked to increase the salary of a local officer, and legislative courtesy permits that one member to be the arbiter of this legislation. Often the proposed measure is enacted before the taxpayers of the locality have either information or opportunity for a protest. Thus legislation becomes a farce, and local self-government is denied. * * *

'I believe that as a rule all salaries and compensation of local officers should be regulated by the localities themselves. The people who pay the taxes are the best judges of what that compensation should be. So far as is possible general laws should be passed relegating this jurisdiction to the proper local authorities. I am aware that in the case of county judges and surrogates this reform must be accomplished by constitutional amendment, but in most other cases it is believed that immediate relief to the Legislature and a greater measure of self-government to localities can be afforded by a wisely framed general statute having this relegation of authority as its object.'

For these reasons I am unable to give my approval to this measure."

May 4.

Veto of Assembly bill entitled "An act to establish the compensation of Surrogate of Rensselaer county."

"For the reasons given in a memorandum filed this day with Senate bill No. 108 — not approved,— I am unable to approve this bill."

May 13.

Veto of Assembly bill entitled "An act to promote agriculture, household manufactures, encourage the raising of poultry, and to improve the breed of stock in this State, and making an appropriation therefor."

"This bill is disapproved for the reason that its provisions, in my judgment, fail to supply that kind of encouragement which the agricultural interests of the State are most in need of. The hundred thousand dollars appropriated is designed to be distributed among agricultural societies in premiums on farm products, agricultural machinery and implements and household manufactures. Already during the present year the Legislature has appropriated over $96,000 for a similar purpose in three separate bills, besides appropriating nearly $175,000 additional for dairy interests, farmers' institutes, experimental work in agriculture, etc. The total appropriation of public money for the promotion of agricultural interests will be large this year, without the expenditure proposed by this bill, and inasmuch as State taxation falls most heavily upon the farmers they particularly are interested in demanding that every dollar of appropriation shall be placed where it will be certain to do the most good.

My own observation and experience have convinced me that the most practicable kind of relief which can be offered to the agricultural communities of the State is that which, recognizing the changed conditions prevailing now and created by the opening up of an immense farming territory in the West, endeavors to discourage our farmers from the vain attempt to compete with their western rivals in the production of wheat and corn and other cereals, and stimulates them to new lines of agricultural effort more suited to existing conditions and to present demands. The rapid increase of population in the towns and cities of the State is of direct benefit to our farmers, if they would take advantage of it, by offering a greater market than that possessed by the farmers of any other State for the sale of the so-called 'small' crops — vegetables, fruits, etc.— of dairy products, fine butters and cheeses, of poultry and eggs, and other produce, the demand for which is constantly increasing and in the sale of which there cannot be dangerous competition from the farmers of neighboring States. Why should our farmers cater to English taste by exporting cheese at eight cents a pound, when there is an abundant home market for fancy cheeses bringing many times that price? Legislative measures carefully drafted, and having in view this practical end of readjusting agricultural methods and aims to meet present conditions will receive my hearty support and approval, and I am confident they would give greater satisfaction to the people of the State than such a measure as this whose purpose is already generously provided for by other legislation, and whose provisions are not sufficiently explicit to guarantee desirable results from so great an expenditure. Indiscreet or careless appropriations of money for the promotion of agriculture or for any other public purpose do more injury in the long run than good, and the fact that in four separate measures during the recent legislative session, three of which have become laws, appropriations have been made for the distribution of premiums at agricultural and industrial fairs, indicates quite clearly that the legislation was somewhat spasmodic and not well-considered. I hope that at the next legislative session such measures may be grouped together into one careful, intelligent and comprehensive bill whose provisions will be of genuine benefit to agricultural interests and therefore to the State at large."

May 13.

Veto of Assembly bill entitled "An act to facilitate State commerce by increasing and improving the lockage capacity of the Erie canal, and to improve the Erie, Oswego, Black River, Cayuga and Seneca and Champlain canals."

"This bill is so constructed that the Executive cannot approve some of the items of appropriation and disapprove others, but must sign or veto as a whole the total amount of the appropriation, namely, $540,000. I regret this circumstance for I am informed that certain canal improvements authorized by the bill are quite necessary and should not be delayed. This is said to be true, especially in the case of the proposed repairs upon the upper and lower Mohawk aqueducts, the Schoharie creek aqueduct, and upon the dam at Cohoes. I am informed, however, that as to the first three there are available funds which can be used for the purpose if necessary during the current year, while the urgency of the repairs upon the dam at Cohoes is not apparent, since the Legislature, by chapter 155 of the Laws of the present year, has appropriated $2,000 for the purpose of ascertaining before the next legislative session whether it is advisable to build a new dam at this point to replace the one upon which it is now proposed to expend considerable money in repairs.

The expenditure directed for the other objects of the bill, while doubtless in the interest of canal improvement, is by no means essential to the immediate good service of the State's water-ways. To preserve those water-ways, so that they may continue to be the great regulator of freight rates, helping all sections of the State by the commercial importance which they give to our great cities, and benefiting all classes of citizens by diminishing the cost of food supplies, is a constitutional obligation which it is the duty of the law-making power conscientiously to observe. If the canal system was a benefit to the people years ago when the State produced nearly all of the food products which its people consumed, it must certainly be a benefit now when our people produce only a small proportion of what we consume, for it indisputably cheapens the cost of transportation. Yet the very maintenance of the public waterways is likely to be threatened by excessive appropriations, for the indirect benefit of the outlay is sometimes difficult to explain satisfactorily to the average taxpayer, while the increase in his annual tax rate is a very convincing means of demonstration. That these appropriations have been large of recent years, and that their tendency is to increase, has been only too evident, and has provoked no little criticism and opposition in various parts of the State. It must not be ignored in this connection, too, that the producers of the State, who number a large part of its population, while benefited by cheap freight rates, have been injuriously affected by improved means of communication with the greater producing areas of the West, and are ruefully watching the decrease of wealth and population in the agricultural communities where taxes are harder to pay than in commercial and industrial localities. The danger is, at this time particularly, that too great liberality in canal appropriations will, by provoking opposition from unfriendly sources, react against the very cause they are designed to promote.

For maintenance and improvements to the canals there has already been appropriated this year about a million dollars — quite sufficient for all ordinary purposes and enough to maintain the canal system during the present season of navigation without any impairment of its efficiency. The increase of lockage capacity intended to be secured by this bill can be postponed without injury to public interests. During the five years ending with 1890 there had been appropriated for this purpose alone upwards of $2,500,000, and it must be confessed the results were not very satisfactory, for the tonnage of the canals was actually less in 1890 than in 1886. Indeed the large amounts of money which have been expended on canal improvements during many years past have not yielded corresponding results and the canals now do not carry one-half of their capacity. Their tonnage for the decade ending with 1890 averaged only 5,245,000 tons per year, in spite of the fact that the canals had been made free, which was but a very slight increase over the record for the previous decade, when tolls were required, and actually less than the tonnage for the decade ending with the year 1870. These figures suggest at least the necessity for proceeding cautiously in the appropriation of public money for desired improvements and demand that reasonable assurance of advantage should precede the imposition of every new burden upon the people.

I would respectfully suggest also that in the future the various appropriations for the canals be placed in one bill so far as possible, so that the people may know more precisely the total amount expended for this purpose, and that the items be so arranged that each one may be judged separately upon its merits, so that a desirable appropriation may not fail because merged with undesirable appropriations."

May 17.

Veto of Assembly bill entitled "An act to amend section thirteen hundred and ninety-three of the Code of Civil Procedure, relating to exemptions."[25]

" I am not in sympathy with the purpose of this bill. Its object is practically to repeal the statute which, as construed by a decision of the Court of Appeals, exempts from taxation soldiers' homes bought with pension money.[m] The intention of the law has undoubtedly been to give to our crippled veterans the full benefit of their pensions, and to encourage them to invest their well-deserved money in little homesteads, where they could pass the remainder of their days secure against the danger of being ousted for nonpayment of taxes. This privilege is one which the State can well afford to grant to the broken-down defenders of our country, and one to whose revocation, I am confident, the Legislature would not have assented had it understood the full purport of the measure now before me.

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[25] The soldiers' exemption law was modified by an act passed in 1897, chapter 347, amending the tax law of 1896, chapter 908, section 4, subd. 5, by subjecting property purchased with pension money to taxation for school and highway purposes. The exemption was continued as to other purposes. The act prescribed procedure for obtaining the exemption and defined the duties of assessors in relation thereto.

[m] See Yates County Nat. Bank v. Carpenter (1890), 119 N. Y. 550.

The attitude of the soldiers of the State toward the measure is well reflected in the letters which I have received urging me to withhold my approval from it. One of these is from the Commander of the Grand Army of the Republic, Department of New York, who states the sentiment of opposition so well that I give his communication herewith in full:

'OFFICE OF COMMANDER,
'DEPARTMENT OF NEW YORK,
'GRAND ARMY OF THE REPUBLIC,
'SYRACUSE, N. Y., *April* 30, 1892.

'Hon. R. P. FLOWER, *Governor, Albany, N. Y.:*

'DEAR SIR.— Owing to my absence from the State by order of my physician, I was unaware until my arrival here yesterday, of the passage by the late Legislature of what is known as the Deyo bill, which provides that soldiers' homes that have been purchased with moneys received as pensions for services rendered the United States, should be subject to the tax laws of our State. The Court of Appeals has decided that homes so purchased shall be exempt from execution for debts, as the intention of the government and the people was and is now that these broken-down veteran soldiers should possess and enjoy their little homes for the balance of their days, without molestation. Now is it possible that the great State of New York will at this late day take a backward step, and allow the homes of these veterans to be taken away from them for *non-payment of taxes?* Our State and country have been made rich and prosperous as the result of the heroic services of these veterans, and we cannot believe that the people of the State desire now to do anything that will seem to them unjust.

'As the Commander of the Department of New York Grand Army of the Republic, representing over 42,000 members, and in their name, I urge and beseech you not to allow this bill to become a law. We look to you for assistance, and feel confident that our appeal will be heard.

'Respectfully,
'T. L. POOLE,
'Commander Dept.'

These views accord so entirely with my own that I have no hesitation in refusing my signature to the bill."

May 17.

Veto of Assembly bill entitled "An act to amend section twenty-five hundred and thirteen of the Code of Civil Procedure, relating to the employment of stenographers in Surrogates' Courts."[26]

"The last sentence of section 2513 of the Code of Civil Procedure as proposed to be amended by this bill provides that 'a transcript of such notes in longhand shall in every case be made and filed forthwith in the office of the surrogate.'

In many cases this would be wholly unnecessary and useless and would add a burdensome expense to proceedings in Surrogates' Courts."

May 17.

Veto of Senate bill entitled "An act to amend an act entitled 'An act authorizing a loan of certain moneys belonging to the United States deposited with the State of New York for safekeeping,' passed April fourth, eighteen hundred and thirty-seven."

"The bill increases the fees of loan commissioners from 12½ cents to 50 cents for each book of mortgages searched.

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[26] Section 2513 of the Code of Civil Procedure, referred to in the Governor's veto, was amended and extended in 1893, chapter 686, including, among other things, a provision that the stenographer "shall deliver to the surrogate of the county a full copy of all the minutes taken by him." This provision has been continued in subsequent amendments.

I am not convinced from the information before me that the measure is in the public interest, and I am unable therefore to give it my approval."

May 17.

Veto of Assembly bill entitled "An act in relation to the study of vocal music in the public schools of the State of New York."[27]

" This bill is full of mandatory provisions.

It compels instruction in vocal music in the State Normal schools.

It compels the board of education in every city of the State (New York and Brooklyn excepted) to provide free instruction in vocal music in the public schools.

It imposes the same obligation on the board of education in every village with a population of more than 5,000, where a superintendent is employed, and in every union free school district — unless excused by the State Superintendent of Public Instruction.

It directs the Superintendent of Public Instruction to provide instruction in vocal music in all the teachers' institutes throughout the State.

Desirable as it may be to encourage vocal music I do not believe it is the function or should be the policy of the State to arbitrarily direct the establishment of any such wholesale innovation into our common school curriculum.

It is wrong in principle for the Legislature to compel the city of Buffalo or any other municipality to provide instruction in vocal music in its free schools if that city does not desire of its own volition to supply such instruction.

With its mandatory provisions made permissive I would willingly approve the measure, but in its present shape it is, in my judgment, opposed to sound principles of legislation."

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[27] The next year, 1893, an act was passed, chapter 636, providing for free instruction in vocal music in normal schools, city schools, union free schools and in teachers' institutes.

May 17.

Veto of Senate bill entitled "An act to amend chapter four hundred and forty-three of the laws of eighteen hundred and eighty-three, entitled 'An act to amend chapter five hundred and fifty of the laws of eighteen hundred and eighty-one, entitled "An act to amend chapter one hundred and twenty-three of the laws of eighteen hundred and fifty-four, entitled An act to promote medical science.'"

"This bill is defective in construction. It is drafted in apparent ignorance of chapter 280 of the Laws of 1887, and therefore omits the important amendments contained in that chapter."

May 17.

Veto of Assembly bill entitled "An act to confer upon the town board of Bath, county of Steuben, the power to call and hold a special town meeting to determine in what places in said town annual or special town meetings shall be hereafter held, and to vote upon an application to the board of supervisors of said county to authorize the annual and special town meetings in such town to be held by the election districts."

"The object sought to be accomplished by this bill can already be attained under the general town law. The measure is therefore unnecessary."

May 17.

Veto of Senate bill entitled "An act to amend chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for a police commission in the town of Flatbush, Kings county, and to establish a police force therein.'"

"This bill is proper in form except in one respect, namely: it absolutely raises and fixes the salary of captain of police. In disapproving similar bills I have repeatedly stated my opposition to mandatory legislation compelling an increase of salary to local officers irrespective of the desires of the people of the locality or of their official authorities, and I cannot consistently depart from that policy in this case.

May 17.

Veto of Senate bill entitled "An act to amend chapter three hundred and seven of the laws of eighteen hundred and eighty-nine, entitled 'An act to amend section thirteen of chapter seven hundred and thirteen of the laws of eighteen hundred and eighty-seven, entitled "An act to amend chapter four hundred and eighty-three of the laws of eighteen hundred and eighty-five, entitled 'An act to tax gifts, legacies and collateral inheritances in certain cases.'"

"All the additional provisions contained in this bill are contained in section 14 of chapter 399 of the Laws of 1892, and the measure is therefore unnecessary."

May 17.

Veto of Assembly bill entitled "An act to prohibit the opening or reading of certain letters written or received by the inmates of insane hospitals and asylums by those in charge thereof, and providing for the delivery of the same."

"I am of the opinion that this legislation would interfere with the proper conduct of institutions for the insane, subject many persons to unnecessary annoyance and embarrassment, and accomplish no good purpose which is not already provided for by existing law. Letters of insane patients addressed to public officers must now be forwarded unopened by asylum officers, thus securing official attention to any complaints of abuse by hospital keepers, attendants, physicians or other employees, and all letters detained for any cause must be forwarded to the Commission in Lunacy, by whom they may be sent to their destination should it appear that they were improperly detained. These safeguards would seem to offer sufficient protection to inmates of asylums against unjust incarceration or confinement.

To permit insane patients to receive letters unopened would encourage the secret transmission of poisonous drugs, matches, knife-blades, etc., which are dangerous articles in the hands of the insane.

Present regulations seem to me to be well devised for the prevention of any possible wrongs, and such an innovation as is proposed would, I fear, result in mischief and harm."

May 17.

Veto of Senate bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claims of Orville Powell, Jeanette McAllister, Kate P. Hough, Mary Kneaskern, Frank Powell, Lena Powell, Maria Powell, and the claims of Gordon Hough and Jeanette McAllister, as administratrix and administrator of the goods, chattels and credits of the late Abner Powell, deceased, against the State of New York for damages to the property of the late Abner Powell, deceased, caused by the State, by and for the permanent appropriations of the lands of the said Abner Powell for the canals of the State, and to make an award therefor."

"Part of the claim would have been outlawed as between individuals and is therefore unconstitutional.[a] As to the remainder, special legislation is not required to allow its presentation before the Board of Claims."

May 17.

Veto of Assembly bill entitled "An act to amend section fifty-three of title eleven of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the department of police and excise."

"The bill requires every engineer in charge of a steam engine or boiler to be a citizen of the United States. While citizenship is desirable for all worthy persons making their home in this country it is not an essential requisite to being a competent engineer."

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[a] Const. 1846, art. 7, § 14, added 1874.

May 17.

Veto of Senate bill entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled 'An act to amend and consolidate the several acts in relation to the charter of the city of Rochester,' as amended by chapter fourteen of the laws of eighteen hundred and eighty, entitled 'An act to further amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled "An act to amend and consolidate the several acts in relation to the charter of the city of Rochester," and to consolidate therewith the several acts in relation to the charter of said city.'"

"The bill makes it mandatory upon the board of police to grant vacations and leaves of absence to members of the police department. Such legislation ought to be permissive in form. The police authorities ought to have full power to regulate the matter of vacations according to their own discretion and without direction from the Legislature."

May 17.

Veto of Assembly bill entitled "An act to authorize the city of Cohoes to borrow money by the issue of bonds for the purpose of carrying on the government of the city in anticipation of the collection of general taxes now due."

"The principle of this bill is bad. It would permit the issue of bonds to an amount of not exceeding $40,000, the proceeds of which are to be applied solely to the payment of taxes now due. If taxes are now due the diligence of city officers should be exercised to secure their collection.

New burdens for such a purpose should not be imposed upon the citizens until all legal remedies for the collection of taxes have been exhausted. The measure is opposed by many reputable citizens of Cohoes and I am unwilling to give it my approval."

May 17.

Veto of Senate bill entitled "An act to amend chapter fifty-seven of the laws of eighteen hundred and ninety-two, entitled 'An act to amend sections nineteen and twenty-eight and make two additional sections to title one of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," and also to amend section two of title two and section sixteen of title three of same chapter, so as to divide the eighteenth ward and to provide for two additional wards.'"

"The bill is unnecessary. Chapter 455 of the Laws of 1892 gives to the common council power to change ward boundaries in the city of Brooklyn."

May 17.

Veto of Assembly bill entitled "An act to repeal chapter five hundred and forty-two of the laws of eighteen hundred and eighty-four, entitled 'An act to provide for the improvement of the Salmon river and a branch of the same known as the Mad river, in the counties of Oswego, Lewis and Jefferson, and to make an appropriation therefor.'"

"The apparent object of this bill is to repeal an act making these streams public highways. If that is the object the enactment of the bill will not accomplish it, since chapter 619 of the Laws of 1881, which declares them public highways, will remain unrepealed."

May 17.

Memorandum filed with Senate bill, chap. 642, providing an additional surrogate for New York. Approved.[28]

"Relief is undoubtedly desirable for the Surrogate's Court in the county of New York. The business of the court has so increased in late years that one surrogate unassisted is hardly able to attend to it all. Practically the only question, therefore, which the Executive has considered in connection with the bill is that of constitutionality. The affirmative arguments seem to me to establish the bill's constitutionality, and if there is any disposition in any quarter to question it there will be ample opportunity for the courts to determine the matter before the additional surrogate, whose election is provided for in the bill, enters upon the duties of his office."

May 17.

Memorandum filed with Assembly bill, chap. 638, fixing the tax levy. Approved.

"The bill supplements chapter 84 of the Laws of 1892, both of which make the total tax rate for State purposes for the next fiscal year one and ninety-eight hundredths mills on each dollar of assessed valuation. With the exception of last year this rate is the lowest since 1855, and has been accomplished by gratifying economy on the part of the Legislature. Considering the necessity for large appropriations this year for the State's representation at the World's Fair and for the enumeration of the inhabitants, the appropriations have been comparatively small and none has been granted unless it was absolutely necessary. In my annual message transmitted to the Legislature at the beginning of the session I said:*

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[28] Any doubt as to the constitutionality of this statute, which provided an additional surrogate for the county of New York, was settled by the Constitution of 1894, article 6, section 15, which continued existing surrogates' courts and the surrogates then in office, which necessarily included the additional surrogate in New York provided by the act of 1892, chapter 642.

'In these times when federal and local taxation bears heavily upon the people, the Legislature should avoid unnecessary or excessive appropriations of public money and demand the strictest economy consistent with good administration in the various departments and bureaus of the public service. * * * Lavish use of public money is a dangerous foe to public morals and to official administration. The affairs of the government should be managed with the same honesty, economy and zeal as characterize the management of private business.'

It is gratifying to observe that this suggestion has received such cordial support by the Legislature and that the record of the session is so conspicuous for economy and retrenchment. The taxpayers are to be congratulated on this satisfactory result.

The tax rate of 1.98 mills is distributed as follows: for schools, one mill — the same as last year; for canals, 26 hundredths of a mill — less by 11½ hundredths of a mill than that of last year; and for general purposes of government 72 hundredths of a mill. This last item is an increase over last year, when, by reason of the presence of considerable surplus in the treasury, no tax was required to be levied for general purposes, but it is less than has been levied for general purposes in any year for a generation back. The canal tax rate does not, as is evidently supposed in some parts of the State, include provision for raising the $540,000 for canal improvements which was recently vetoed by the Executive, that measure having provided in itself for an additional tax levy of 14 hundredths of a mill on each dollar of valuation.

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*_Ante_, p. 10.

The low tax rate will, I am sure, give general satisfaction, and although some interests may have suffered by reason of the vigilant economy practiced, the result, on the whole, will be approved by the taxpayers."

May 17.

Veto of Assembly bill entitled "An act to authorize the board of supervisors of Oneida county to fix and regulate the fees and salaries of the officers of said county, and Senate bill entitled "An act to make the office of county clerk of Cayuga county a salaried office and regulating the management of said office."

" There seems to be a growing conviction that the fee system of compensating county clerks and sheriffs for their services should be abolished and the salary system substituted. In 1887 the county clerk of St. Lawrence county, in 1890 the county clerks of Steuben, Ontario, and Chautauqua counties, in 1891 the county clerks of Herkimer and Madison counties, and in 1892 the county clerks of Schuyler and Wayne counties have been made salaried officers by chapter 392 of the Laws of 1887, chapters 323, 327 and 547 of the Laws of 1890, chapters 47 and 64 of the Laws of 1891, and chapters 590 and 663 of the Laws of 1892 respectively. The sheriffs of New York, Madison and Wayne counties have been made salaried officers by chapter 523 of the Laws of 1890, and chapters 29 and 30 of the Laws of 1891.

The bill first above mentioned proposes to give the board of supervisors power to abolish the fee system for all county officers of Oneida county and to fix the salaries of all the county officers of that county except the county judge. Upon the face of the bill, it would authorize the supervisors to fix the salary of the surrogate of that county, and to that extent the bill is upon its face unconstitutional.°

But apart from that the bill is too radical and sweeping, at least while the movement for the change from the fee

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° Const. 1846, art. 6, § 15, am. 1869.

to the salary system is yet in its experimental stage. Certain charges for services of sheriffs and county clerks, whether paid to them as fees for their services, or for the benefit of the county treasuries, should be uniform throughout the State, which would not long be the case, if the charges in each county are left wholly to local regulation.

The fact that the movement is still in its experimental stage, is the only reason and a sufficient reason for allowing the movement still to proceed by special legislation for one county at a time. After the experiment has been sufficiently tried in these few scattered counties, the movement should be abandoned if found undesirable, or by general law made applicable to all counties, if proved beneficial to the public. For this reason, I have approved the special legislation of the present year, making the clerks of Schuyler and Wayne counties salaried officers.

But the bill now before me to make the county clerk of Cayuga county a salaried officer, differs in several important particulars from similar laws for the county clerks of other counties.

First. It requires the board of supervisors to fix the annual salary of the county clerk of that county at $2,500 instead of allowing the amount to be fixed by the board of supervisors as provided by the Herkimer and Madison county acts of 1891, and by the Schuyler and Wayne county acts of the present year.

Second. While appearing to allow the board of supervisors to regulate certain charges, as for searches, etc., in fact the bill requires the clerk to collect for the benefit of the county the full fees now permitted by law, the language of the bill being as follows:

'It shall be his duty to exact, collect and receive all such fees, emoluments and perquisites now permitted by law, and not exceeding the amount fixed by law, as from time to time shall be prescribed by resolution of the board of supervisors,' etc.

Nearly all the other acts provide for a possible reduction of certain charges, particularly for searches, for which the county clerks in rural counties seldom charge the full legal fees. To compel the clerk to collect the full fees allowed by law in all cases would be very burdensome to the people desiring such services.

Third. The bill abolishes the office of deputy clerk which is otherwise uniform throughout the State, and substitutes three assistant clerks, whose salaries are to be fixed by the board of supervisors, but for whose official acts the county clerk shall be responsible. As the supervisors may change such salaries at their pleasure, the supervisors are indirectly given power to control the appointment of the assistants for whom the clerk must be responsible.

On account of these objectionable variations from the other bills which I have approved, I must withhold my approval from this bill.

The special legislation making county clerks salaried officers ought to end with the present year. If it is desired to extend the salary system to other counties hereafter, it should be done by a general or substantially general law, consolidating, revising and repealing all the existing special laws, and including under one carefully framed act, all the counties desiring to adopt the change."

May 17.

Veto of Assembly bill entitled "An act to amend chapter four hundred and fifty-two of the laws of eighteen hundred and eighty-eight, entitled 'An act to authorize and empower the board of trustees of incorporated villages in this State to contract with electric light companies organized under the laws of this State, for lighting the streets and public grounds of said villages.'"

"The principal change effected by this proposed legislation is that which increases from 1½ mills for every dollar of taxable property to four mills the aggregate sum for which village trustees are authorized to contract with electric light companies for purposes of illumination in villages. This would extend very materially the power of trustees to tax villages without the necessity of submitting proposed expenditures to a vote of the people. It would give undue preference to village expenditures for electric light purposes, and in many cases would confer unwise and unreasonable power upon boards of trustees. Legislation should be well guarded which authorizes local taxation for local purposes without submission to popular vote, and I cannot but regard the change proposed by this bill as too radical and injudicious."

May 17.

Veto of Assembly bill entitled "An act to amend chapter three hundred and forty-two of the laws of eighteen hundred and eighty-five, entitled 'An act for better security of mechanics, laborers and others who perform labor or furnish material for buildings and other improvements in the several cities and counties of this State,' and repeal certain acts and parts of acts amendatory thereof."

"The object of this bill is to amend section one of the mechanics' lien law, so as to give a lien for dredging, filling in, grading or otherwise altering or improving meadow, marsh, swamp or other low lands. Such object seems very desirable. In fact I can see no reason why the mechanics' lien law should not be extended so as to authorize a lien by any laborer for his work upon or connected with any real property.

But this bill was drafted in evident forgetfulness of the amendment made to the same section by chapter 316 of the Laws of 1888, authorizing a lien for gas and electric lighting apparatus. The provisions added by the act of 1888 are omitted from this bill, and would therefore be repealed if the bill should be approved. This evidently was not the deliberate intention of the framer of the bill or of the Legislature."

May 17.

Veto of Assembly bill entitled "An act to amend chapter three hundred and forty-two of the laws of eighteen hundred and eighty-five, entitled 'An act for the better security of mechanics, laborers and others who perform labor or furnish materials for buildings and other improvements in the several cities and counties in this State, and to repeal certain acts and parts of acts.'"

"This bill proposes to add two new sections, numbered 27 and 28, to the present mechanics' lien law. In the first draft of the bill these sections seem to have been numbered 28 and 29, and two references in the latter section still remain to section 28 which should also have been correspondingly amended so as to refer to section 27. As the bill now reads, these two references in section 28 to the notice provided for in section 28 should be to the notice provided for in section 27. Such references, as they now read, may seriously affect the substance of the bill.

The general object of the bill is to enable persons furnishing materials or performing work for a contractor, to give a written notice thereof to the owner to retain in his hands sufficient moneys from the amount payable to such contractor, to meet the indebtedness of the contractor to his sub-contractor or employee, and thereby possibly avoid the necessity of filing a lien. This object seems desirable. But the bill further provides that if a lien shall be filed within ninety days after giving such notice, it shall relate back and be a lien as of the date of giving the notice. Under this provision, secret liens may stand for ninety days without appearing of record, and then take precedence of other liens actually filed in the meantime. This would encourage the manufacture of fictitious ante-dated notices, by collusion with an owner, to secure preferences over *bona fide* liens previously filed."

May 17.

Veto of Senate bill entitled "An act to amend sections seven hundred and three and seven hundred and four of the Code of Criminal Procedure, relative to trials by jury in Courts of Special Sessions."[29]

"The object of this bill is to apply the same general method of selecting jurors in Courts of Special Sessions, which has lately been made applicable to justices' courts. This object is very desirable, and but for one clause in the bill I would be glad to approve it. Section 1 provides among other matters:

'It shall be the duty of every town or city clerk in this state within ten days after the taking effect of this act to make and deliver to every recorder, police justice or other judicial officer having authority to hold courts of special sessions in their respective towns or cities, in accordance with the provisions of this title, a certified copy of the jury list as is now required by section 2990 of the Code of Civil Procedure to be furnished by them to the justices of the peace of their various towns and cities for the drawing of jurors in civil actions, and any such clerk neglecting or refusing so to do shall be deemed guilty of a misdemeanor.'

Section 3 of the bill provides:

'This act shall take effect immediately.'

If this bill were approved the town and city clerks throughout the State would have but ten days after the date of approval in which to learn of the existence and contents of the law and to comply with its provisions. Under the present system of announcing to the people the fact of the enactment of a law and its contents, it would be practically impossible for a large majority of the town and city clerks in the State to obtain a copy of the law and to comply with its provisions within ten days after its approval, and thus without fault on their part, they would be guilty of crime. The injustice of such a result outweighs the advantages which would accrue from the desirable reform which the bill would probably effect in the jury system of Courts of Special Sessions."

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[29] This subject was included in an act passed the next year, 1893, chapter 127, amending section 703 of the Code of Criminal Procedure relative to juries in courts of special sessions.

May 17.

Veto of Assembly bill entitled "An act to establish and maintain a Supreme Court law library in the fifth judicial district at Oswego, New York."

"This bill appropriates $5,000 for the establishment of a law library permanently at Oswego. The following quotation from my message to the present Legislature disapproving Senate bill No. 167 to establish a Supreme Court law library at Elmira is equally applicable to this bill, to-wit:*

'It is perhaps doubtful whether the State should assume the policy of supplying every justice of the Supreme Court with a law library. But however that may be, it seems clear that the State should not locate any such library permanently in any city unless it is reasonably certain that there will always be a justice of the Supreme Court resident in that city.'"

May 18.

Veto of Senate bill entitled "An act to provide for naming of the continuous highway in the county of Kings, extending from Ocean Parkway to low-water mark in the town of New Utrecht in the lines of Avenue K as altered and of Twenty-second avenue; and for the maintaining and management of the same by the park commissioners of the city of Brooklyn."

"I have approved Senate bill No. 583,—chapter 666 of the Laws of this year,—of which this bill is in most re-

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***Ante*, p. 46.

spects a duplicate. At least the former measure seems to contain every important provision of this one with some additional clauses, and the enactment of both is unnecessary."

May 18.

Veto of Senate bill entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages.'"

"The section of the general village act which this bill seeks to amend was amended in 1891 by chapter 160 of the Laws of that year by inserting a provision that 'taxes raised for any specific item of anticipated expense under section 11 of title 3 of this act shall not be applied to any other than the designated purpose during the current year.' There is no reference to this amendment either in the title or the body of the present bill, and the words quoted are wholly omitted. I can find from these facts no evidence of any intention on the part of the Legislature to repeal such an important provision of law, and I infer that the error is that of the draftsman. The executive approval is therefore withheld."

May 18.

Veto of Assembly bill entitled "An act to amend sections twenty-six hundred and twenty-four, twenty-six hundred and twenty-six, twenty-six hundred and twenty-nine, twenty-six hundred and forty-seven and twenty-six hundred and fifty-two, and to repeal section twenty-six hundred and twenty-seven of the Code of Civil Procedure, in relation to probate of wills."

"This bill and Assembly bill No. 800, which has been approved by me and is now chapter 591 of the Laws of 1892, were both aimed at the same defect theretofore existing in the law governing the effect of a probate of a will of real property. So far as the title to real property devised by will was concerned, the probate of the will by the Surrogate's Court, though affirmed by the General Term of the Supreme Court and again by the Court of Appeals, established only presumptively the fact and validity of the will. In an action subsequently brought involving the title to the real estate under the will the whole matter including the due execution of the will, the mental capacity of the testator, etc., could be litigated anew with the right to jury trial. If the will devised real property to another than heirs, each heir might bring separate action of ejectment, and separately litigate the same questions, with a right to two jury trials of the same issues.

This bill proposes to remedy such inconvenience by giving to the probate of a will the same conclusive effect as to real property devised thereby as has for a long time been allowed as to personal property bequeathed. Thus the right to jury trial of the issue of title to real property devised would be taken away. This remedy if not unconstitutional is a radical innovation.

The other bill referred to adopted a more conservative and a clearly constitutional remedy, by authorizing an action in the Supreme Court within two years after the probate of the will, in which all parties interested shall be joined, and in such action the issue of whether the instrument is or is not the last will of the testator shall be tried by a jury, and the final judgment in such action shall be conclusive as to title to all property under the will.

This solution of the problem is more conservative and safe, and I have therefore selected that bill for approval."

May 18.

Veto of Assembly bill entitled "An act to amend chapter two hundred and sixty-nine of the laws of eighteen hundred and eighty, entitled 'An act to provide for the review and correction of illegal, erroneous or unequal assessments.'"

"This bill would establish for railroad and telegraph companies a different rule in proceedings to review assessments from that which prevails as to all other persons and corporations.

To entitle one to a remedy by *certiorari* to the assessors under the act of 1880, it has always been held that he must appear on the review day and make application for a reduction of his assessment if he claims it to be unequal or erroneous for over-valuation.

This is but just to the assessors and to all the other taxpayers. The former should have notice of such a claim and be put in possession of the facts on which it is based in order that they may do justice to the latter, without incurring the possibility of an expensive litigation. No good reason exists why railroad and telegraph companies, surely as well able to take care of themselves as anybody else, should be exempted from this salutary rule of law; and I have therefore decided that I cannot approve this bill."

May 18.

Veto of Senate bill entitled "An act relative to the powers and duties of the board of improvement in the town of New Utrecht, and for the improvement of the public highways in said town."

" This bill if it became a law would abolish the office of commissioner of highways in the town of New Utrecht in the county of Kings, and devolve his powers and duties on the board of improvement of said town, who would be authorized by its terms to construct, re-construct, regulate, grade and improve its highways, 'from time to time by macadamizing or otherwise, in such manner and to such extent as in their judgment shall be deemed expedient.'

The bill further provides for the issue of bonds in payment for such improvements to an amount not exceeding four hundred thousand dollars in the next five years, and at the rate of fifteen thousand dollars in each year thereafter; and confers on the board of improvement exclusive control over the highways of the town, and full power ' to hire and employ such persons as may be required for the performance of the work provided for by this act.'

I cannot resist the conviction that this bill is in violation of the provision of section 18 of article III of the Constitution which prohibits the Legislature from passing any local bill, ' laying out, opening, altering, *working* or discontinuing roads, highways or alleys.'

If the bill merely provided for the transfer of control from one local authority to another it would probably be within the scope of the legislative power; but so much doubt would be thrown about the exercise of any authority under it in its present form, and especially as to the validity of the bonds it provides for, that I feel constrained to withhold my approval."

May 18.

Veto of Assembly bill entitled "An act to establish a normal and training school at the village of Jamaica, in the county of Queens." [30]

"If it were deemed desirable that any more normal schools should be established in the State there would seem to be strong arguments in favor of the location of one at Jamaica. That section of the State has been ignored, perhaps unjustly, in the location of these schools. But I am convinced that there is no present necessity for increasing the number of normal schools, and with this conviction I cannot consistently give my approval to the expenditure of $100,000 appropriated by this bill. Moreover the tax-rate for the present year having already been fixed, so large an extraordinary expenditure as this is unadvisable."

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[30] A normal school at Jamaica was established in 1893, chapter 553, which appropriated $100,000 for this purpose.

May 18.

Veto of Assembly bill entitled "An act to provide improved transportation facilities for the New York State Reformatory at Elmira."

"This bill is disapproved for the reason that the expenditure of $35,000 appropriated is not deemed expedient or advisable at the present time."

May 18.

Memorandum filed with statutory revision bills:

Assembly bill, chap. 687, General Corporation Law. Approved.

Assembly bill, chap. 688, Stock Incorporation Law. Approved.

Assembly bill, chap. 639, Banking Corporations Law. Approved.

Assembly bill, chap. 690, Insurance Corporations Law. Approved.

Assembly bill, chap. 676, the Railroad Law. Approved.

Assembly bill, chap. 691, Business Corporations Law. Approved.

Assembly bill, chap. 692, amending the Penal Code. Approved.

"These seven bills complete the revision by the Legislature of the laws relating to corporations organized for profit, and are based upon the reports of the Commissioners of Statutory Revision.

This revision inaugurates, in many important respects, a more liberal policy on the part of the State toward legitimate business enterprises necessarily carried on under corporate management. At the same time the revision adds new and more effective safeguards against corporate abuses in the way of trusts and similar combinations which have excited apprehension of danger to the public welfare.

Section 7 of the stock corporation law which applies to all corporations organized for profit is as follows:

'Sec. 7. Combinations prohibited. No stock corporation shall combine with any other corporation or person for the creation of a monopoly, or the unlawful restraint of trade or for the prevention of competition in any necessary of life.'

Any doubt as to the power of the courts at common law to restrain monopolistic combinations and to adjudge contracts therefor illegal and void, is set at rest by this succinct enactment which proceeds further than the common law rule has been authoritatively declared in this State.

Much of the criticism directed against the revision has arisen from a misapprehension of its scope and a failure on the part of the critics to understand that it is intended to form a harmonious whole. There has been no attempt to embody the whole law relating to any one class of corporations in any single chapter. All the chapters of the revision are to be read in connection with the statutory construction law. The general corporation law applies to every corporation. The stock corporation law to each corporation having capital stock. Among such are included business corporations, transportation corporations, insurance corporations, railroads and banks, and any argument based on a consideration of one of the chapters affecting only these latter interests would be incomplete and partial unless it included a careful examination of the first three mentioned. Hence restrictions and provisions which apply to all corporations or to all corporations having capital examined but one of the minor bills. This has been notably the case with the provisions respecting the consolidation of corporate interests and the mortgaging of corporate property.

Again, it has been the policy of the Legislature to include as far as convenient in the Civil Code, the Penal Code and the Criminal Code, respectively, whatever provisions seemed naturally to form parts thereof, and it is for this reason that many sections defining penal offenses or providing for remedies in the courts of justice have been detached from their former context, and will now be found only in the amendments to the three codes in question.

In my annual message I called attention to the fact that criticism has been frequently made of the recent corporate legislation of the State in that its harshness was driving to New Jersey many corporations which under less severe requirements would organize under our laws and I said: 'Our corporation laws should be strict enough for the protection of the public, but they should not tend to discourage the investment of money in worthy enterprises and industries within our borders.'

That the emigration of capital from our State is constantly going on, the columns of the daily press bear ample witness.

It will not be surprising where so much general legislation has been crowded into a single session, if instances shall be found where amendments would become necessary; but on the whole I am convinced that these bills carry out to a great extent the principles cited from my message and are wise and conservative and will prove beneficial in their operation."

Chap. 676, sec. 98, railroads, pavements, was sustained in Mechanicsville v. Stillwater & M. Street R. Co. (1901), 35 Misc. 513.

Chap. 688, as am'd in 1901, chap. 354, sec. 47, was sustained in Hinckley v. Schwartzchild & Co. (1905), 107 App. Div. 470.

Chap. 689, secs. 14, 33, general banking law, foreign building and loan associations, was sustained in People v. Granite State Provident Asso. (1900), 161 N. Y. 492; sec. 52, liability of stockholders, in Hirshfeld v. Bopp (1895), 145 N. Y. 84; secs. 118, 130, savings banks deposits, in Elmira Sav. Bank v. Davis (1894), 142 N. Y. 590.

Chap. 690, sec. 56, insurance law, proceedings for accounting, was sustained in Swan v. Mutual Reserve Fund Life Asso. (1898), 155 N. Y. 9; sec. 125, am. 1896, chap. 850, changing domestic mutual fire insurance companies to joint stock corporations, in Grobe v. Erie County Mut. Ins. Co. (1899), 39 App. Div. 183.

Chap. 687, sec. 15, general corporation law, certificate to foreign corporation, was held unconstitutional in Hargraves Mills v. Harden (1898), 25 Misc. 665.

Chap. 688, sec. 54, liability of stockholders, was held unconstitutional in Close v. Noye (1893), 58 N. Y. S. R. 115, reversed without considering the statute of 1892, in (1895) 147 N. Y. 597.

May 19.

Veto of Assembly bill entitled "An act in relation to the branding and marking certain goods, wares and merchandise wholly or partially manufactured in the penal institutions of this State."

"This bill is applicable to all shirts, collars and cuffs wholly or partially made or laundered, and to all brushes manufactured by convict labor in any penitentiary, prison, reformatory or other penal institution of this State.

By chapter 130 of the Laws of 1892, taking effect July first, next, all such labor in any such institution is absolutely prohibited. This bill, if enacted later, would seem impliedly to permit such labor upon the conditions imposed. If existing contracts should be held enforceable, notwithstanding chapter 130, which is not probable, they would by the same reasoning be held enforceable notwithstanding this bill, if it should become a law. Thus this bill would be liable to defeat the very object it seeks to accomplish."

May 19.

Veto of Assembly bill entitled "An act to amend section two hundred and eleven of the Code of Criminal Procedure relating to defendant choosing how he shall be tried."

"This bill would confine to cases arising in the city of New York the right of a person accused of a misdemeanor triable by a Court of Special Sessions to elect that he shall not be tried unless first indicted by a grand jury. The bill proceeds upon the erroneous theory that Courts of Special Sessions outside of New York city have only the exclusive jurisdiction given by section 56 of the Criminal Code. There are various other statutes giving courts of special sessions jurisdiction to try misdemeanors and section 211 is applicable and ought to remain applicable to such cases."

May 19.

Veto of Assembly bill entitled "An act authorizing the construction of a bridge over the Champlain canal at the farm crossing of the late S. C. Rathbun in the town of Whitehall, and making an appropriation therefor."

"I am informed by the State Engineer who has made a careful examination into this matter, that there is no liability resting on the State to construct a bridge at this point, and the bill is therefore disapproved."

May 19.

Veto of Assembly bill entitled "An act to amend chapter four hundred and sixty-six of the Laws of eighteen hundred and seventy-seven, entitled 'An act in relation to assignments of the estate of debtors for the benefit of creditors' as amended by chapter three hundred and eighteen of the Laws of eighteen hundred and seventy-eight."

"The object of this bill is to allow, for the benefit of creditors, to an assignee who is a defeated party defendant in an action to set aside the assignment for fraud, his fees and expenses in the defense in the action where he has defended in good faith.

This seems plausible on its face. But the real parties to such actions are two sets of creditors, one set seeking to sustain and the other set seeking to defeat the assignment. The assignee is but a nominal party representing the set of creditors seeking to sustain the assignment. If his expenses for counsel, etc., in defending the action are to be paid out of the estate, the set of creditors he represents are given an undue advantage in the litigation, because they will gain the fund in controversy if they win and will gain enough of it to pay their expenses if they lose. The justice of the present law upon the subject is satisfactorily shown by Daniels, J., in Mayer v. Hazard, 49 Hun, 227."

May 19.

Veto of Senate bill entitled "An act to allow interest on awards of the Board of Claims in certain cases."

"This bill provides that the Board of Claims may allow interest on the damages awarded for injuries on account of the canals, from the time of filing the claims. In actions between individuals, interest is not ordinarily allowed on unliquidated damages arising from torts. There is no reason why the State should assume a greater liability for the torts of its officers or servants than is imposed on individuals in like cases. The bill would encourage delay in prosecuting claims against the State, which is not in as good situation as are individuals to keep track of the witnesses to the matter in controversy. If officials or employees of the State who have been guilty of the negligence giving rise to the claim are discharged or otherwise go out of office, or leave the employment of the State, their sympathies are apt to be with the claimant and against the State. If any distinction is to be made between the liability of individuals and of the State for interest in such damages the distinction should be in favor of rather than against the State. This bill seems to be a step in the wrong direction."

May 19.

Veto of Senate bill entitled "An act making appropriations for protecting the highway along the foot of Owasco lake."

"The State's alleged liability in this matter is now being tested in the courts, and while that is pending I doubt the propriety of prejudicing the litigation by any legislative enactment.* To enact this bill would be, by implication at least, an assumption of the State's liability. Moreover I am informed by both the State Engineer and the Superintendent of Public Works that the evidence already brought out in the matter plainly shows that the damage sought to be repaired at State expense was not caused by the State's use of the waters of the lake."

May 19.

Veto of Senate bill entitled "An act to regulate the salaries of police patrolmen in Long Island City."

"While permissive in form this bill is practically mandatory, since it authorizes the fixing of salaries at prescribed figures, leaving nothing to the discretion of the local authorities. It should have prescribed the maximum salaries or have relegated the entire responsibility in the matter to the local authorities."

May 19.

Veto of Senate bill entitled "An act to regulate the custody and disbursement of experimental elevated railway income percentage special tax receipts in certain cases."

"This is an old claim, pressed by Charles T. Harvey, a civil engineer of New York city, and arising out of alleged services to the State by Harvey in certain elevated railroad experiments in the year 1867 and subsequently. Stripped of unnecessary verbiage the bill is substantially a recognition by the State of Harvey's claim and offers an opportunity to him to secure for the benefit of himself and other individuals the sum of $206,211.70 from the city treasury of New York. A bill to accomplish this purpose was once declared to be unconstitutional by the Court of Appeals, and two measures passed since have failed to receive Executive approval.*

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* See Wright v. Stranahan, 61 Hun, 264; again 83 Hun, 615; judgment modified, 149 N. Y. 495.

A statement of the points involved therefore is unnecessary at the present time. After a careful consideration of the briefs and papers submitted for and against the bill, I am constrained to withhold my approval for the following reasons:

1. Because I fail to see that the State is under any pecuniary obligation to Harvey whatever.

2. Whether there is any such legal or moral obligation or not, the money with which it is provided by this bill to be paid properly belongs to the city of New York, and should not be diverted to any other than municipal purposes. It was paid under a contract made inviolable by the Legislature as compensation for the use of streets occupied by the elevated railroads. It was small enough compensation for the franchise granted, and the city should not be deprived of even this pittance.

3. The bill is of doubtful constitutionality. Not only does it threaten to impair the obligation of a contract, but it seems opposed to section 11 of article VIII of the Constitution which declares that 'No county, city, town or village shall hereafter give any money or property or loan its money or credit to or in aid of any individual, association or corporation,' and to section 19 of article III of the Constitution, which declares that 'the Legislature

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* See People ex rel. Harvey v. Loew, 102 N. Y. 471. For previous vetoes of the Harvey claim, see vol. 8, pp. 886, 1160.

shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.'

The measure is opposed by the local authorities of New York and the claim is not sustained by any general public sentiment anywhere in the State."

May 19.

Veto of item in Senate bill, chap. 704, making an appropriation for enlarging the House of Refuge for Women.

" 'Sect. 8. Section fourteen of said act of eighteen hundred and eighty-one is hereby amended so as to read as follows:

'Sect. 14. The sum of seventy-five thousand dollars is hereby appropriated for the purposes of this act. The Treasurer of the State shall, upon the warrant of the Comptroller, pay to the treasurer of the board of managers of said House of Refuge such sums as may, from time to time, be required for the erection of buildings and furnishing the same, not to exceed the sum of one hundred and fifty thousand dollars, such requirement being notified to the Comptroller by the said board of managers, in writing, specifying in items the purposes for which the said sums were required.'

The House of Refuge for Women at Hudson was the first reformatory institution of the kind to be established by the State and the result of the experiment there tried has been so satisfactory as to leave no longer any doubt of the value of these institutions in reforming fallen women. The Hudson institution has been so well managed that it is estimated that seventy per cent. of the inmates are permanently reformed.

It is urged before me however by the State Board of Charities that to do effective work such institutions ought not to have more than two hundred and fifty inmates, inasmuch as when the number exceeds that figure direct reformatory influence upon the individual inmates is more difficult. The Hudson House of Refuge already has upwards of two hundred and seventy inmates. The granting of this appropriation would materially increase its capacity, and if the position of the State Board of Charities be well taken it would be wiser policy to establish separate institutions than to enlarge existing institutions beyond the limit of their usefulness.

With this in view I have already approved the bill to establish a women's reformatory in New York or Westchester county, and this proposed institution, together with the new one at Albion which is to be opened to commitments in November next, ought to be sufficient to supply the needs of the State for a number of years. The new facilities thus afforded for the commitment of this class of women make unnecessary the enlargement of the Hudson institution, even were that advisable.

The other provisions of the bill, some of which are meritorious, will remain although this appropriation be vetoed."

May 20.

Veto of Senate bill entitled "An act to amend sections one and two of chapter five hundred and twenty-nine of the Laws of eighteen hundred and eighty-seven, entitled 'An act to regulate the hours of labor in the street surface railroads, chartered by the State.'"

"This bill is radically defective in form. It would apparently exempt elevated railroad employees from the provisions of the act amended. This, I am sure, could not have been the intention of the bill's framers, and would work injustice to a large class of employees in New York and Brooklyn."

May 20.

Memorandum filed with Assembly bill, chap. 711, limiting the hours of service on railroads. Approved.

"I cannot describe the purpose of this bill more fairly than by quoting the introductory paragraph of one of the briefs submitted in opposition to the measure by one of the prominent railroad companies of the State. 'This bill,' says the brief, 'has three objects: first, that no engineer, fireman, conductor or trainman who has rendered twenty-four hours continuous service shall thereafter—under ordinary circumstances—continue service or resume service without first having had at least eight hours' rest. Second, that the working day of every engineer, fireman, conductor and trainman shall not exceed ten hours of service rendered within twelve consecutive hours; and third, that if any such engineer, fireman, conductor or trainman shall render more than ten hours service he shall receive comparative compensation for the excess in addition to his daily compensation.'

The legislation is urged in the interest of both railroad employees and the traveling public. It is in line with the general demand for shorter hours of labor. I have given it my approval with the hope that it will accomplish the object sought."

May 20.

Memorandum filed with Assembly bill, chap. 707, to establish the Adirondack Park. Approved.

"The object of this bill is to enable the State judiciously to increase and consolidate its holdings of forest lands in the Adirondack wilderness. Out of the 3,700,000 acres of land comprised in this region the State now owns about 900,000 acres, half of which is situated in detached pieces around the border of the wilderness. The intention of the act is to enable the State to sell as much of this outside holding as may seem wise, and to buy, in place of the lands thus sold, more desirable timber lands nearer the heart of the forest and nearer the head waters of the great streams which have their source in the Adirondacks, so that the ends sought to be attained by the establishment of an Adirondack park may be more certainly accomplished.

The advantage of this legislation is twofold. In the first place it is estimated that the State will be able thereby to increase the acreage which it holds — much of the State property now situated on the outskirts of the Adirondacks being quite saleable, it is said, and likely to bring higher prices than it will be necessary to pay for interior lands which are really better adapted for the State's purpose.

Secondly, the carrying out of the project contained in the bill will consolidate the State's holdings and enable the State to pursue some rational and practical system of forestry, which is virtually impossible now with the State lands scattered as they are all over the forest preserve and consisting of widely varying territory.

The scheme proposed by the bill, it will be understood from the above description, carries no appropriation with it, but all revenues from the sale of the so-called "outside" lands will be devoted to the purchase of new lands better adapted for the purposes of a forest preserve. Eventually the State preserve ought to pay the expense of its maintenance from the judicious sale of timber and the leasing, at moderate rentals, of small parcels of land to individuals for the establishment of summer homes under proper regulations.

I have cheerfully approved the measure, for I believe thoroughly in the wisdom and actual necessity of preserving this great timbered wilderness for the protection of the head waters of our streams and for the benefit to agricultural interests which it yields in its important influence upon our rainfalls. No State is more fortunate than ours in its lakes and streams, and it should be the duty of the present generation to see that these natural advantages which we now enjoy are not lost through indifference or waste. The Adirondacks, at an altitude ranging from 1,000 to 5,000 feet above the sea, are the sources of the Hudson, Oswegatchie and Black rivers and of innumerable smaller streams which feed our lakes and supply many of our waterways. To suffer their destruction will be to threaten the State with serious injury. Not only would it cripple commerce by depriving the Erie canal of a regularity of supply from one of its best feeders, the Black river, but it would probably change materially the climatic conditions now prevailing in the State, much to the detriment of our farmers who need the uniform and steady character of rainfall which our abundant forests and numerous bodies of water guarantee. For illustrations of the probable effect upon agricultural interests we have only to refer to the long periods of drouth and uncertain rainfalls in some of the treeless States of the West, like Kansas, Nebraska, Montana and the Dakotas.

The proposed State forest preserve is a subject which interests alike every citizen of the State, and for that reason is worthy of general encouragement and support."

May 20. The omnibus veto included the following bills:

A. 1277. An act authorizing the completion of the State armory at Olean, Cattaraugus county, and providing for the payment of expenses incurred in the erection thereof, and making an appropriation therefor.

A. 25. An act to amend section one hundred and seventy-eight of chapter five hundred and sixty-nine of the Laws of eighteen hundred and ninety, entitled "An act in relation to towns, constituting chapter twenty-five of the general laws, passed June seven, eighteen hundred and ninety."

S. 435. An act to amend chapter fifty-three of the Laws of eighteen hundred and thirty, entitled "An act to incorporate the Clinton hall association in the city of New York," as amended by chapter twenty-two of the Laws of eighteen hundred and fifty-three, entitled "An act to amend an act entitled 'An act to incorporate the Clinton hall association of the city of New York,'" passed February twenty-third, eighteen hundred and thirty.

A. 897. An act to amend chapter five hundred and forty-two of the Laws of eighteen hundred and seventy-nine, entitled "An act amending the Code of Civil Procedure."

A. 459. An act to amend chapter fifty-one of the Laws of eighteen hundred and ninety, entitled "An act relating to the liabilities and remedies of husband and wife."

S. 529. An act to amend section four of title four of chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," referring to taxation on the stocks or bonds of said city.

S. 590. An act providing for the formation and management of co-operative savings and loan associations.

S. 653. An act to amend section three of article one of title four of chapter two of part four of the Revised Statutes, as amended by chapter one hundred and fifty-six of the Laws of eighteen hundred and ninety.

S. 749. An act to amend chapter ninety of the Laws of eighteen hundred and sixty-five, entitled "An act to amend and consolidate the several acts relating to the village of Ilion."

A. 1184. An act to amend chapter five hundred and fifteen of the Laws of eighteen hundred and eighty-nine, entitled "An act to prevent deception in sales of vinegar, and charging the New York State Dairy Commissioner with its enforcement."

A. 1101. An act to authorize the city of Brooklyn to purchase certain land in the sixteenth ward of said city, to be used for street purposes.

A. 406. An act to amend chapter one hundred and seven of the Laws of eighteen hundred and eighty-four, entitled "An act in relation to the collection of taxes in Monroe county, and to authorize and provide for the sale of property for unpaid taxes in said county."

A. 679. An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of Charles McKinstry against the State of New York.

A. 552. An act assuming liability by the State of New York for injuries sustained by Michael Strohm, and conferring jurisdiction upon the Board of Claims to hear, audit and determine the same.

A. 952. An act to amend subdivision three of section eighty-six of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter four hundred and eighteen of the Laws of eighteen hundred and eighty-seven, and chapter one hundred and fifteen of the Laws of eighteen hundred and eighty-eight, relative to powers of common council.

A. 1068. An act to amend chapter one hundred and twenty-nine of the Laws of eighteen hundred and seventy-two, entitled "An act to amend an act passed May third, eighteen hundred and seventy, entitled 'An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen,' and the several acts amendatory thereto, and also to amend other acts relating to the city of Troy," as amended by chapter sixty-seven of the Laws of eighteen hundred and seventy-seven, and as further amended by chapter thirty of the Laws of eighteen hundred and eighty, and as further amended by chapter two hundred of the Laws of eighteen hundred and ninety-one.

S. 355. An act to amend section two hundred and twenty-one of chapter five hundred and sixty-nine of the Laws of eighteen hundred and ninety, entitled "An act in relation to towns, constituting chapter twenty of the general laws."

S. 416. An act to amend section one hundred and one, article four, chapter five hundred and sixty-five of the Laws of eighteen hundred and ninety, entitled "An act in relation to railroads constituting chapter thirty-nine of the general laws."

A. 1219. An act to amend chapter two hundred and sixty-two of the Laws of eighteen hundred and ninety, entitled "An act to promote the independence of voters at public elections, enforce the secrecy of the ballot and provide for the printing and distribution of ballots at public expense."

A. 1178. An act to amend sections thirty-three hundred and four and thirty-three hundred and seven of the Code of Civil Procedure, relative to sums as fees.

A. 347. An act to incorporate the Grand Assembly of New York, order of the International Fraternal Alliance.

S. 642. An act to amend section eighteen hundred and sixty-six of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter four hundred and ninety of the Laws of eighteen hundred and eighty-seven.

S. 159. An act to remove obstructions from the channel of the State ditch between Liverpool and Mud Lock, in the town of Salina, Onondaga county, to improve the sanitary condition thereof, and to make an appropriation therefor.

S. 246. An act to legalize and confirm the official acts of Julia C. Swikehard as commissioner of deeds in and for the city of Rochester, Monroe county, New York.

A. 451. An act to regulate the practice of architecture.

A. 996. An act to amend section one of chapter two hundred and sixty-nine of the Laws of eighteen hundred and eighty-six, entitled "An act to regulate the use of public highways."

A. 784. An act to amend sections six hundred and fifty-eight and fourteen hundred and nineteen of the Code of Civil Procedure, in relation to filing of bonds.

A. 968. An act to amend chapter five hundred and forty-five of the Laws of eighteen hundred and ninety, entitled "An act providing for the election of a commissioner of street improvements of the twenty-third and twenty-fourth wards of the city of New York, and transferring to him certain powers now possessed by the department of public parks of said city in relation to the public improvements of said wards, and constituting him a member of the board of street opening and improvements of said city."

S. 644. An act to further amend section eighteen hundred and fifty of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter four hundred and ninety of the Laws of eighteen hundred and eighty-seven.

A. 1330. An act amending section nineteen hundred and twenty-nine of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," relating to advertising boundaries of election districts, et cetera.

A. 1241. An act to amend chapter five hundred and ninety-one of the Laws of eighteen hundred and eighty, entitled "An act for the appointment of game and fish protectors," as amended by chapter three hundred and seventeen of the Laws of eighteen hundred and eighty-three.

A. 760. An act for the preservation of health and the prevention of nuisances in cities and incorporated villages.

A. 1379. An act to provide for the erection of fire hydrants and for supplying the same with water in the town of New Utrecht, county of Kings.

A. 838. An act to amend section four of title eleven of chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," and the several acts amendatory thereof relating to police and excise.

S. 790. An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claims of Archibald McIntyre, personally, and as executor and his successors in interest and subsequent grantees and owners against the State.

S. 446. An act to amend chapter five hundred and seventy-three, of the Laws of eighteen hundred and eighty-six, entitled "An act to revise, consolidate and amend chapter two hundred and eighty-seven of the Laws of eighteen hundred and seventy-nine, and chapter three hundred and sixty-two of the Laws of eighteen hundred and eighty, relating to the formation of town and county co-operative insurance companies, and the acts amendatory thereof."

A. 1208. An act to amend chapter two hundred and twenty-three of the Laws of eighteen hundred and eighty-five, entitled "An act for the relief of William L. Cole, Thomas F. Meehan, and J. M. Meehan."

A. 435. An act to amend section thirteen hundred and forty-seven of the Code of Civil Procedure, relating to orders and appeals therefrom.

A. 720. An act to further amend chapter four hundred and nine of the Laws of eighteen hundred and eighty-two, entitled "An act to revise the statutes of this State relating to banks, banking and trust companies."

A. 828. An act to authorize the improvement of the concourse lands at Coney Island, in Kings county.

A. 340. An act to amend sections four, fifty-two and fifty-four of title eleven of chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," relative to the department of police and excise.

A. 134. An act to exempt the sanitarium for Hebrew children of the city of New York from the payment of taxes or assessments on property owned and to be actually occupied and used by it for charitable and benevolent purposes at Rockaway Beach, town of Hempstead, Queens county, New York, passed eighteen hundred and ninety-one.

A. 718. An act to amend sections one and three of chapter five hundred and forty-two of the Laws of eighteen hundred and eighty, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint stock companies and associations," as amended by chapter three hundred and sixty-one of the Laws of eighteen hundred and eighty-one, and subsequent acts.

A. 1365. An act to authorize the appointment of a special detective officer in the several counties of this State, defining the powers and duties, and providing for the compensation of such officer.

A. 1359. An act to amend chapter four hundred and fifty-four of the Laws of eighteen hundred and seventy-four, entitled "An act to authorize the board of supervisors of Erie county to regulate the publishing of election notices in said county, passed May twelfth, eighteen hundred and seventy-four.

A. 1110. An act to amend section thirty-two hundred and fifty-three of the Code of Civil Procedure, relative to costs in foreclosure.

A. 1062. An act to amend chapter three hundred and thirteen of the Laws of eighteen hundred and eighty-six, entitled "An act to regulate the practice of veterinary medicine and surgery in the State of New York," as amended by chapter one hundred and sixty-six of the Laws of eighteen hundred and eighty-seven, and chapter five hundred and thirty-seven of the Laws of eighteen hundred and eighty-nine, and chapter four hundred and nineteen of the Laws of eighteen hundred and ninety.

A. 631. An act to amend section nine hundred and forty-four of the Code of Criminal Procedure relative to the criminal statistics.

A. 463. An act to promote the usefulness of the Senate and Assembly libraries.

A. 139. An act to incorporate the Troy and Green Island Bridge Company, for the purpose of constructing and main-

taining a bridge, appurtenances and approaches to the same over the Hudson river, from the foot of Douw street, in the city of Troy, to some point in the village of Green Island on the opposite side of said Hudson river.

S. 2. An act to enable the commissioners appointed to construct a bridge over the Harlem river in the city of New York, in pursuance of the provisions of chapter four hundred and eighty-seven of the Laws of eighteen hundred and eighty-five, to close up their affairs and vacate their offices.

S. 781. An act to authorize the Board of Claims to hear, audit and determine certain claims of the city of Rochester against the State.

1892. EXTRAORDINARY SESSION.

April 25. The Legislature met in extraordinary session pursuant to the Governor's proclamation dated the 21st instant. The Governor transmitted the following

MESSAGE.

To the Legislature.—You have been convened in extraordinary session pursuant to the power vested in me by article IV, section 4 of the Constitution.

I recommend for your consideration the subject of a reapportionment of members of Assembly among the several counties of the State and an alteration of Senate districts, in conformity with the provisions of the Constitution. [See note 1.]

The organic law of the State, recognizing the right of the people to fair representation in the Legislature, provides for an enumeration of the inhabitants at the end of every ten years, and directs that a reapportionment of Senate and Assembly districts shall be made "at the first session after the return of every enumeration."[1]

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[1] Const. 1846, art. 3, §§ 4, 5.

Such an enumeration, although neglected in defiance of constitutional obligation for seven years, has at last been taken, and the return thereof was made to the Legislature at its recent session. It is now the duty of the law-making power to apportion members of Assembly among the counties in proportion to the number of their respective inhabitants, excluding aliens, and to so alter the existing Senate districts that each will contain as nearly as may be an equal number of inhabitants.

The performance of that duty in a manner satisfactory to the people of the State is not without difficulty, but personal and political considerations should be subordinated as much as possible to the purpose of securing for each locality its fair proportion of representation. The task is rendered the more difficult by reason of the fact that the existing apportionment was not only unfair at the time of its enactment, but has become more and more unfair with the changes of population. Under a fair division of members of Assembly, therefore, some counties must make sacrifices and suffer a reduction in their representation. But such sacrifices should be made willingly, and I trust the Legislature will approach its task with a conciliatory disposition, determined to discharge its duty impartially and to heed the demand of the people for a fairer system of legislative representation.[31]

ROSWELL P. FLOWER.

April 26. The extraordinary session adjourned without day.

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[31] The Legislature at this extraordinary session passed an apportionment act, chapter 397, which was approved on the 30th of April. It created 32 Senate districts, and apportioned 128 members of Assembly. This apportionment was superseded by the apportionment contained in the Constitution of 1894, which increased the Senate from 32 to 50 members, and the Assembly from 128 to 150 members, under which the first election was held in November, 1895.

The apportionment act of 1892, chapter 397, was sustained in People ex rel. Carter v. Rice (1892), 135 N. Y. 473.

ROSWELL P. FLOWER, Governor.

ANNUAL MESSAGE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *January* 3, 1893.

To THE LEGISLATURE.— So numerous and varied are the interests of our great State that each year brings new demands for legislation. The present year forms no exception. While the State is in an unusually prosperous condition, and no very great public questions present themselves for legislative solution, there are numerous matters in whose proper settlement the people are interested and whose wise disposition will promote the welfare and prosperity of our citizens. We, as their public servants, should be watchful of their interests and conduct the business of government with the same fidelity and zeal which we would exhibit toward our private affairs.

It has been my pleasure during the recess of the Legislature to more intimately acquaint myself with the workings of the various departments and bureaus of the State government, and the recommendations which will be laid before you in this communication are based largely upon the impressions obtained by these personal visits and inspections. I have visited and inspected all the State prisons and reformatories, all the State hospitals except two, part of the custodial asylums, some of the normal schools, the State Meteorological Station at Cornell University, of which the Executive is an *ex-officio* member of the board of trustees, the Niagara Reservation, the Adirondack Preserve, the fish hatcheries and the oyster beds, the Erie and Champlain canals, the State Camp at Peekskill, the Rifle Range at Creedmoor, the Quarantine Station on Staten Island, the State Fair at Syracuse, and other local centers of State activity in one form or another. I take pleasure in testifying publicly to the efficiency and honesty with which, as a rule, all of these State interests are administered, and such suggestions as I have to make are made with the view of improvement rather than in any spirit of captious criticism.

STATE FINANCES.

The financial condition of the State is very satisfactory. There is practically no State debt. The only outstanding obligations are virtually already provided for. They consist of $150,000 balance of canal debt, which matures next October, and for the liquidation of which there is now sufficient money in the Canal Fund; and of $300,000 Niagara Reservation bonds, the last of which do not mature until 1895, but all of which can be paid at any time from surplus moneys now in the treasury, with the proper legislative authority. The following table shows the financial operations of the treasury during the last fiscal year:

Cash in treasury to credit of General Fund, October 1, 1891	$5,231,270 46
Receipts from all sources during the fiscal year ending September 30, 1892	6,553,993 16
Total	$11,785,263 62
Payments from General Fund during fiscal year ending September 30, 1892	10,083,776 60
Balance in treasury October 1, 1892	$1,701,487 02

Considering that no tax was laid during the last fiscal year for general purposes of government, this is a particularly gratifying showing.

The principal sources of indirect revenue were from the inheritance tax and the franchise and organization taxes on corporations. The former yielded $1,786,218.47, or more than twice as much as was yielded during the preceding year. This marked increase is owing to the fact that there was passed last year by the Legislature and approved by the Executive an act which placed in the hands of the Comptroller an appropriation of $25,000 for examining records of surrogates' offices with a view to collecting delinquent taxes. The Comptroller has performed his work well, as the large increase in receipts from this source shows.

There was also an increase in the receipts from the franchise and organization tax on corporations, the revenues from this source reaching $1,696,960.99, or $161,085.88 in excess of the revenues of the preceding year.

TAXATION.

The subject of taxation is likely to occupy considerable attention of the Legislature during the coming session, and no subject is worthier of your profound and disinterested consideration. The Legislature, at its last session, appointed a joint committee of Senate and Assembly to investigate present methods of taxation and to suggest needed reforms, and also by another provision authorized the Governor to designate two persons to examine the tax laws of other States and to report proposed legislation relating to the assessment and collection of taxes. The efforts of these two agencies should accomplish some practical good, and until their reports are submitted to the Legislature I refrain from making any specific recommendations as to desired changes in existing laws.

As regards the alleged disparity of tax burdens borne by personal property and real estate, however, it would be interesting if the legislative committee on taxation could take testimony upon the effect of chapter 202 of the laws of last year, which was designed to prevent evasion of taxation on personal property. Either through faulty assessments or the opportunity which the laws formerly afforded for "swearing off" by allowing deductions in the assessment of personal property for all "just debts," it is believed that many millions of dollars' worth of personal property has escaped taxation altogether. Indeed, although the State has been increasing in wealth at a tremendous rate during the last twenty years, the actual assessed valuation of personal property was less in 1891 than in 1871 by more than $70,000,000. The statute of 1892 alluded to, prohibits the deduction from assessment of personal property of (1) debts for the purchase of nontaxable property; (2) debts on account of indirect liability as surety, guarantor, indorser or otherwise; and (3) debts contracted for the purpose of evading taxation. This prohibition would seem to be rigid enough to prevent personal property from escaping taxation through any lack of verbiage in the statute, as it has in the past. While the law imposes equal burdens on real estate and personal property, and faulty administration or defective phraseology permits personal property to shirk its share of the burden, it is not strange that owners of real estate protest against this inequality and suggest radical remedies. The legislation of last year ought to tend to equalize these burdens, and a thorough inquiry into its actual workings would furnish valuable information for future legislative guidance.

THE BUFFALO STRIKE.

The peace and good order of the State were threatened in August last by lawless demonstrations during the strike of railroad switchmen at Buffalo. The existence of a labor controversy incited evil-disposed persons to destroy property and endanger human lives. The sheriff of Erie county was unable to quell the disturbance and called upon the commanding officer of the Fourth Brigade to order out two regiments to assist him in protecting property and preserving the peace. This demand of the sheriff was supplemented by the requisition of a judge of the Supreme Court in that department, and on the morning of August seventeenth the entire brigade, with the exception of the Forty-seventh Separate Company, was on the scene of the disturbance in active service.

Up to this time there had been no call upon the Governor for military assistance. The sheriff had refused to request aid from the Commander-in-Chief until he was satisfied that the troops already on the ground were insufficient to preserve order. Under this condition of things, believing that their property was still in danger and that the local troops were not sufficient to prevent violence and lawless interference with the moving trains, the representatives of the various railroads united in a dispatch to me, describing the situation as critical and urging the sending of more soldiers, in spite of the refusal of the sheriff to request them. I replied promptly that the Executive was justified in ordering out the National Guard for the suppression of riots only when the local civil authorities confessed their inability to quell the disturbance and requested assistance from State authorities; and in the absence of such a request I must refuse to order out any portion of the militia. Early on the morning of August eighteenth I received the following dispatch:

BUFFALO, *August* 18, 1892.

HON. ROSWELL P. FLOWER, *Governor, Executive Mansion, Albany, N. Y.:*

We have become satisfied that the situation here in Buffalo, under the pending strike, has become so serious that we ask that the National Guard of the State be called out to protect the lives and property of citizens of this city and county.

AUGUST BECK,
Sheriff.
CHAS. F. BISHOP,
Mayor.

Upon the receipt of this request, orders were at once issued to the Adjutant-General, and portions of the First, Second and Third brigades, mustering in all 5,233 men, were at Buffalo within forty-eight hours from the issuance of the orders. The Forty-seventh Separate Company, of Hornellsville, joined the other troops on August twenty-first, making the entire force of militia on the ground, including those of the Fourth Brigade, called out upon request of the sheriff and judge of the Supreme Court, to number 7,196 men. The presence of this large military force prevented further violence and restored civil order. On August twenty-fifth, twenty-sixth and twenty-seventh the troops were withdrawn and there has been no disturbance since.

I have stated the facts relating to the calling out of the militia in order that the Legislature may have before it the necessary information to guide it in providing for the unusual expense thus incurred, should it be considered wise to relieve the county of Erie from paying the total cost, as the Attorney-General decides it must do under the statute. Up to November thirtieth, the total expenditure caused was $192,647.30. This has been paid with money advanced by the Comptroller, who, I am informed, has sought to be reimbursed by the supervisors of Erie county. The complete amount will probably be a few thousands of dollars in excess of this figure.[1]

Although regretting the necessity which required the service of the militia, every citizen must feel proud of the alacrity and soldierly spirit with which the National Guard responded to the call of duty. It was a splendid demonstration of the strength and efficiency of the citizen soldiery. It was made especially manifest, however, that the equipment of the Guard is very deficient, and provision should be made at once to supply the lack. The Adjutant-General estimates that the equipment can be completed for $100,000, and I recommend that half of the amount be appropriated for this purpose at the present session.

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[1] Chapter 555, approved May 4, appropriated $213,747.14 for expenses incurred in connection with the Buffalo strike and at Fire Island, and $6,000 additional for interest. The act declared that nothing therein should be construed as releasing, or in any wise affecting the claim of the State against the county of Erie, or the city of Buffalo, for the recovery of the amount paid and advanced by the State on account of the expenses of the National Guard during the strike.

It is a deplorable fact that the controversy at Buffalo between railroad corporations and their employes should have led to bloodshed and destruction of property. Such a result, brought about by the vicious elements of the community, could not help but prejudice the cause of the employees, for it necessitated the presence of military troops, which have no place in settling labor difficulties. Employees have the right to strike and peaceably persuade others to join them, and in their earnest and lawful efforts to benefit their condition they may always feel sure that public sympathy is with them and against selfish corporations. But every citizen and corporation, every employee and employer, must observe and respect the authority of law and government. So long as they keep within the law, State government will leave them to settle their own disputes. But law must be observed, persons and property must be protected, and the lawful use of property by its owners must not be interfered with. These are the ends for which the State primarily exists. For the maintenance of these ends every dollar of the State's money, the life and services of every member of the National Guard, and the support of every law-abiding citizen are pledged.

It should be the aim of the law-making body to see that our laws confer equal privileges. It is not right that powers should be granted to corporations to oppress either their employees or the people. Whatever can be wisely done by legislation to guarantee equal rights to all should be done. But law will not accomplish everything. Corporations will learn by costly experience that even from the selfish point of view it pays to be considerate of the welfare of their employees. No men or corporation can stop the march of civilization. Shorter hours of labor, better wages and the opportunity which these give for education and enjoyment, are natural human aspirations. They should be treated as such in a friendly Christian spirit, not repelled with arrogant manner or impatient consideration. Honest recognition by corporations of just demands from employees will solve many a labor difficulty and prevent many an opportunity for lawless strife and civil disorder.

THE INTERESTS OF LABOR.

The Factory Act, approved by me last year, gave the State the most effective and most sweeping law in the Union relating to the inspection of factories. Its provisions apply to manufacturing establishments and the hours of employment of women under twenty-one and boys under eighteen years of age, prohibit the employment therein of children under fourteen, and also of children under sixteen who are unable to read and write simple sentences in the English language; authorize the inspectors to require that elevators, machinery, vats, pans, etc., shall be properly guarded; that fire-escapes shall be provided where necessary; that women shall have proper retiring and toilet facilities where they are employed in workshops; that exhaust fans to carry off dust shall be attached to emery wheels and grindstones; that workshops shall not be overcrowded, and shall be properly cleaned and ventilated, and that factory buildings which may be deemed unsafe shall be condemned. The act embodies various other requirements of importance, relating chiefly to the manufacture of certain specified articles of clothing, etc., in tenement-houses.

The factory inspectors are also required to enforce the provisions of chapter 388 of the Laws of 1890, commonly called the "Weekly Payment Law," and of chapter 934 of the Laws of 1871, known as the "Apprenticeship Law."

To enumerate in detail all the benefits which have followed the enactment of the Factory Law, as it has been amended from time to time, is unnecessary here. However, as preliminary to the recommendation I propose to make, I may state that the number of children under sixteen years of age employed in workshops and factories has decreased from 110 in each thousand employees in 1866 to forty-one in each thousand in 1892, thus giving employment to about seven per cent. more adults, and at the same time materially increasing the ratio of school attendants. The employment of children under fourteen in factories is almost entirely abolished. The hours of labor, which were sixty-six per week in the textile and other industries previous to the passage of the law, have been reduced to sixty per week. About 4,000 fire-escapes have been erected on dangerous buildings through the orders of the inspectors, and many lives have indisputably been saved in consequence. Machines and elevators have been guarded to the extent of the protection of thousands of lives more. The sanitary conditions of hundreds of factories have been improved.

The staff of factory inspectors was none too large for the accomplishment of these results, but additional legislation last year, to reach what is known as the "sweating" system, has imposed new duties and made necessary an increase in the number of inspectors if the work is to be thoroughly done.

This additional legislation aimed to regulate the manufacture of clothing in dwelling and tenement-houses, and in buildings in the rear of tenements. A system had grown up debasing in its effects upon those who labored in these places — debauching their morals, depressing their wages to the starvation point, and requiring them to work from fifteen to twenty hours a day in stifling, foul and overcrowded rooms, at the peril of their own health and the health of the community, for from these pestilential places the germs of disease could find easy transmission through the garments manufactured. The law was a new one, modeled upon none that had been enacted anywhere before. There are about 60,000 people engaged in the clothing trade in New York city. Two-thirds of these work in tenement-houses, or in shops in the rear of tenement-houses. The rooms in tenements are used both for domestic and manufacturing purposes, and the workmen are usually boarders of the head of the family. As many as possible are crowded into these places. When the day's labor ceases the work-rooms become bed-rooms, the clothing worked upon is used for mattresses and bed covering. Very little regard is paid to cleanliness or decency. While landlords are the most outspoken in their denunciations of the filth and degradation which prevail, they plead that nothing can be done to improve such people, and that we should permit this state of affairs to continue, because if the law is enforced they will lose paying tenants. The manufacturers, or, in other words, those who own the raw material from which the clothing is made, also decry the people who make up the garments and say that they are past and beyond improvement by the operation of law. Yet the manufacturers are not entirely blameless. Instead of providing workshops for the people who make up their wares, they farm out the work to a contractor at so much a piece. This contractor in turn sublets the work to another contractor, or to a man with a family who can "take in boarders," and the work is then made up on the "team" system, *i. e.*, one part of the garment is given to one operator, another part to another operator, and so on. By the time the work reaches the "team" operator the price for making the garment is so low that the workman can make a bare subsistence only by long stretches of unceasing labor, and the middleman takes advantage of every inch of space and of the workman's ignorance. For defective work, or work that is alleged to be defective, there is a heavy fine, and the net result is what has already been described.

The present law does not go far enough to remedy all the evils which have grown up under this system. If the manufacturer escapes the responsibility and expense of running a factory, he should be compelled to keep a register of those who are making up his goods, and no person should be given work who could not produce a certificate from an inspector stating that he occupied healthy and suitable quarters for the purpose of manufacturing. This would be a proper amendment to the present law, and the importance of the subject, it seems to me, warrants its careful consideration.[2]

There is especial need, however, for such change in the law as will provide for more inspectors. The law now authorizes the appointment of eighteen. This is about one to 2,700 factories. Massachusetts has one to 770 factories; Ohio, one to 850; and New Jersey, one to 870. If the laws are to be rigidly enforced a sufficient number of inspectors must be provided.[3]

COMMON SCHOOL EDUCATION.

The number of children of school age during the year 1892 was 1,845,519. The number attending the public schools was 1,073,093, leaving 772,426 children to be educated in private or parochial schools, or without instruction in any schools. The total amount expended for public schools during the year was $21,134,516 — an increase of $865,398 over the preceding year. If the ratio of public school children to the whole number of children of school age continues to decrease it will not be long before half the latter are educated at private expense or are not educated at all. It is well known that thousands of children in the State are growing up without any school education whatever, and I renew my recommendation of last year for a carefully guarded compulsory education law. Such legislation is only justified as an extreme measure of protection to the State and to society, and its provisions should recognize and respect, so far as is consistent with its main purpose, the principle of personal liberty and unnecessary interference with the rights of citizens.[4]

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[2] Chapter 173, passed March 22, amended the act of 1886, chapter 409, relative to the employment of women and children in manufacturing establishments, and provided for factory inspection, by including provisions intended to restrict employment in tenement-houses where certain specified articles were manufactured, by requiring a written permit from the factory inspector for the employment of persons in the places and on the work specified, and by requiring manufacturers to keep a register of persons so employed, which register was to be subject to examination by the factory inspector.

[3] Chapter 173 increased the number of inspectors, by providing for the appointment of one factory inspector, and one assistant by the Governor and Senate, and by authorizing the factory inspector to appoint twenty-four deputies, not more than ten of whom should be women.

IMPROVEMENT OF THE CANALS.

The tonnage of the canals during the season of 1892 was 281,477 tons less than for the season of 1891. The total tonnage was 4,281,995 tons, comprising the following classes of freight:

	Tons.
Products of the forest	1,249,381
Products of agriculture	1,038,851
Products of manufactures	125,781
Merchandise	292,468
All other articles	1,575,514
Total	4,281,995

The decrease in tonnage is attributed to the fact that the railways have advanced their equipment to such a degree that they are able to transport freight as cheaply as the canals. About the only canal boatmen who can now compete with the railroads are the few who have steam canal boats and tow from three to five boats with them each trip.

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[4] A compulsory education law was passed the next year, 1894, chapter 671.

The great problem for the canal interests to solve, in my judgment, is that of more rapid transit. The maximum speed that the canals will stand is about four miles an hour, but the average speed attained now is only about two miles an hour. The doubling of the rate of speed would enable each boat to make twice as many trips in a season, double its earnings, and largely increase the total canal tonnage. With this improvement and without further enlargement the capacity of the Erie canal could be increased four times the amount of the present annual tonnage. In a letter to the recent canal convention at Buffalo I suggested whether the use of electricity as a motive power would not accomplish the much desired purpose of more rapid transit. Ample water power for the generation of electricity is accessible along the line of the Erie canal and could be utilized without great expense. The fall of water between Buffalo and Albany being 569 feet the waste water at the locks is ample to furnish the power to propel the boats by electricity. The State, however, should own and control the electric plant and charge boatmen a price, sufficient to pay the cost, for the use of the power. This price ought not to exceed sixty cents a day to each boatman, and would be much cheaper than three or four horses or mules upon which he now depends, and consequently would enable him to make greater profits in his occupation. It would seem as if mechanical skill could devise a method for the application of electricity to canal boat propulsion which would be both economical and effective. The effort has in it so much of promise for the prosperity of the canals that I regard it worthy of the careful consideration of the Legislature, and I recommend that proper provision be made by law to encourage and facilitate experiments in this direction under the supervision of the Superintendent of Public Works.[5]

A personal inspection of both the Erie and Champlain canals during the year satisfied me that the canal management is honest, prudent and efficient. The expense of maintenance during the last year was the lowest since 1886.

Improvements are needed to increase the usefulness of the canal system, but I reiterate the opinion which I expressed in an official communication last spring, that too great liberality in canal appropriations will react against the very interests they are expected to subserve. Careful examination, with the State Engineer and Superintendent of Public Works, of the work now needed, satisfied me that a large appropriation will not be required this year to maintain the canal system in a proper state of efficiency and make necessary improvements. The required dredging of the Champlain canal will not demand a larger expenditure than $50,000 for the present year. The expense of repairing the Schoharie creek aqueduct should not exceed $25,000; that of the upper Mohawk aqueduct $20,000, and that of the lower Mohawk aqueduct $25,000. These improvements are, however, imperatively needed and should not be delayed. The Erie basin at Buffalo should be deepened so as to give the canals the same facilities at this terminal point that the railroads have. As regards enlargement of locks and increasing the depth of the Erie canal I refer the Legislature to the very practical suggestions relating thereto in the report of the Superintendent of Public Works.

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[5] Chapter 499, approved April 29, authorized the Superintendent of Public Works to designate, in his discretion, certain parts of the Erie canal "for the purpose of conducting experiments for testing the efficiency, economy and practicability of such devices as may be offered for improving by electrical or other means, the present system of canal towage;" which experiments were to be conducted under rules prescribed by the Superintendent. The same act authorized the Superintendent to permit any person to "construct, maintain and operate the electric conductors by light, heat or power," along any of the canals under regulations to be prescribed by the Superintendent.

I renew the recommendations made to the Legislature last spring that all appropriations for canal purposes be included in a single bill.[6]

THE WORLD'S FAIR.

The energy and intelligence which have been displayed by the State's World's Fair Commissioners give assurance that New York will be foremost in the representation of exhibits at the exhibition which opens in March next. The New York State building — an exceedingly creditable structure — was formally dedicated on October twenty-second. The report of the New York commissioners, which will be subsequently transmitted to the Legislature, shows the efforts that have been made to secure a particularly fine representation of the State's resources. It is reasonable to expect from the steps already taken that every New Yorker will feel a sense of pride in his State's exhibit. While the present appropriation has been all that could well be expended during the year, the commissioners will need an additional appropriation of $300,000 to complete their work properly, and that amount of appropriation is herewith recommended.[7]

AGRICULTURAL INTERESTS.

It has long been the policy of the State to give legitimate encouragement to agriculture by the enactment of wise laws and the appropriation of public money. Such legislation, it will be conceded, should be carefully drafted, with the sole view of subserving a public purpose. One-fourth of the population of the State is directly dependent upon agriculture as a means of support, and the remaining three-fourths are vitally interested in its prosperity. Whatever can wisely be done by legislation to promote this prosperity will meet the approval of the whole people. In ten years upwards of a million dollars have been appropriated for agricultural purposes. A State experiment station has been established to encourage scientific and economical methods of farming; a State dairy commission has been created to prevent deception in dairy products and to encourage dairy farming; a meteorological bureau has been established to issue periodic bulletins of crop and weather reports; appropriations have been given to State and local fairs, to farmers' institutes and for the prevention of contagious diseases among cattle.

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[6] Chapter 119, passed March 10, contained various appropriations for canal improvements.

[7] Chapter 188, passed March 23, made an additional appropriation of $300,000 for expenses incident to the World's Fair.

The Supply Bill, chapter 726, also appropriated $10,000 for the expenses of the women managers in addition to $50,000 already provided for.

Chapter 497, approved April 29, authorized the Board of General Managers to sell and dispose of any State property used in connection with the World's Fair.

The people will not begrudge this large expenditure and liberal State aid if the results are sufficiently commensurate to the outlay. The present tendency, however, of agricultural legislation seems to be marked by somewhat spasmodic and often misdirected efforts. It has become pretty much a matter of legislative log-rolling. There is exhibited no well-defined or practical policy. Legislative energy and disposition are not concentrated so as to produce the best results. At the last legislative session $279,000 was appropriated in different measures for agricultural purposes, and the mere statement of the several objects of expenditure indicates the random and heterogeneous character of the legislation, viz., $20,000 to the New York Agricultural Society for premiums at the State Fair; $20,000 to the same society for distribution to county agricultural societies and to the American Institute for premiums; $8,000 each to the New York and New England Agricultural Society, the Western New York Agricultural

Society and the Inter-State Fair; $40,000 to the State Agricultural Experiment Station at Geneva; $18,500 additional to this station for various purposes; $95,000 to the Dairy Commissioner; $5,000 additional to the Dairy Commissioner for the employment of experts; $4,500 for the State Meteorological Bureau; $15,000 for the maintenance of farmers' institutes under the direction of the State Agricultural Society; $5,000 for promoting and extending dairy knowledge and science, to be expended under the direction of the State Dairymen's Association, and $32,443.95 to the State Agricultural Society out of the receipts from racing associations.

I think it will occur to most persons that greater economy in administration and more practical results might be attained with the same or less expenditure of money by the creation of a bureau of agriculture, which should possess and discharge the functions now distributed among various officers or irresponsible organizations. The annual cost of all the constitutional departments of State government is not so great as the sum of last year's appropriations for the miscellaneous legislative agencies created for promoting agriculture.

The establishment of a comprehensive bureau of agriculture, consolidating under one executive head the various bureaus and agencies now existing, would enable the State to adopt and carry out a definite and intelligent policy of agricultural encouragement. In refusing to approve a bill last year to appropriate $100,000 for premiums at agricultural fairs I took occasion to say:*

"My own observation and experience have convinced me that the most practical kind of relief which can be offered to the agricultural communities of the State is that which, recognizing the changed conditions prevailing now and created by the opening up of an immense farming

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**Ante*, p. 109.

territory in the west, endeavors to discourage our farmers from the vain attempt to compete with their western rivals in the production of wheat and corn and other cereals, and stimulates them to new lines of agricultural effort more suited to existing conditions and to present demands. The rapid increase of population in the towns and cities of the State is of direct benefit to our farmers, if they would take advantage of it, by offering a greater market than that possessed by the farmers of any other State for the sale of the so-called 'small' crops — vegetables, fruits, etc.— of dairy products, fine butters and cheese, of poultry and eggs, and other produce, the demand for which is constantly increasing and in the sale of which there can not be dangerous competition from the farmers of neighboring States. Why should our farmers cater to English tastes by exporting cheese at eight cents a pound, when there is an abundant home market for fancy cheeses bringing many times that price? Legislative measures carefully drafted and having in view this practical end of readjusting agricultural methods and aims to meet present conditions will receive my hearty support and approval, and I am confident they would give greater satisfaction to the people of the State than such a measure as this, whose purpose is already generously provided for by other legislation, and whose provisions are not sufficiently explicit to guarantee desirable results from so great an expenditure."

The alternative which is offered is, practically, a continuance of these heterogeneous and conflicting efforts, involving each year additional expense, or the establishment of a well-equipped agricultural bureau which shall voice the actual needs of the State and give intelligent impetus to agricultural development. Although I share the popular distrust of new governmental bureaus, I am convinced that in this case it would promote the interests of economy and efficiency. It would be a consolidation rather than a new creation. The nucleus of such a bureau is already found in the Dairy Commission, which employs a large number of experts and includes in its work the inspection not only of dairy products but of vinegar. The Experimental Station, the Meteorological Station, and eventually the Forestry Bureau could all be merged into this proposed department under a single executive head to be known as the Commissioner of Agriculture.

Many other States have created agricultural bureaus, and no State has greater interest in developing its agricultural resources than New York. Six and a half million people in this State must be fed. In articles of staple production, like corn and wheat, we cannot expect to compete with the west, but with our ready markets and easy communication we can excel the world in the production of other kinds of food supplies. To the extent that our farmers have broken away from old traditions and have sought to adjust themselves to modern conditions their progress has been marked. We stand to-day in the first rank in value and variety of our agricultural products. In our dairy products the beneficial effect of judicious legislation is recognized not only by the protection which it has afforded the public against deception and adulteration, but in the increased markets and prices which it has enabled our producers to secure. Intelligent suggestions from official sources with regard to the care, feeding and breeding of cattle, are conceded to have decidedly increased the average production of milk from each cow, amounting in the aggregate to an increase of over a million dollars a year in the receipts to milk producers. It is conceded also that the State's product of cheese has much improved in quality since practical instruction in cheese-making was made a feature of the dairy bureau's work by legislative action, and it is estimated that the higher price realized by this improvement in quality has largely increased the value of the annual product. The value of the butter product has also largely increased.

What intelligent encouragement has done for the dairy interest it might also do for other kinds of agricultural effort. Agricultural prosperity means general prosperity. But the taxpayer in the cities as well as on the farms wants to see public money expended so as to produce the best results, and with miscellaneous appropriations aggregating nearly $300,000 per annum for agricultural purposes, it would seem as if prudence and foresight both demanded the adoption of a comprehensive, consistent and intelligent policy. I am convinced that for considerably less than is now expended annually much more satisfactory results could be obtained by the application of systematic business methods under intelligent and comprehensive direction; and I submit to the consideration of the Legislature whether the establishment of an agricultural bureau with ample powers is not the most feasible means to this end.[8]

SCIENTIFIC WORK IN AGRICULTURE.

In line with this suggestion I desire to call the attention of the Legislature to the advantages offered by the State Land Grant College, Cornell University, for carrying on the scientific work of agricultural promotion which is now divided among several agencies, and which should be concentrated under the direction of such a bureau as I have recommended. I think it will be conceded that more effective scientific work of this nature can be done in connection with a great educational institution, and the grouping of these now scattered departments of agricultural effort at one place and under one general supervision will also be a considerable saving of expense in maintenance. Cornell University furnishes an excellent nucleus for carrying on this State work, and its facilities and instructors might be utilized by the State with great advantage to agricultural interests. The State Meteorological Bureau is already located there. There is also an agricultural experiment station already established and doing effective work. Moreover, the institution has established practical courses of instruction in agriculture, botany, horticulture, dairy husbandry, animal industry, poultry keeping and veterinary science. It offers free of charge and without examination, to all persons who are sixteen years of age, competent instruction in these subjects for one or more terms. The country boy or girl who desires to avail himself or herself of these opportunities can, in one or two college terms, obtain practical instruction in the preparation of the soil, fertilizers, harvesting and marketing for general and special crops, laying out and improving farms, drainage and irrigation, farm buildings and fences, with their location, plans and construction, the composition, manufacture, preservation and application of farm-yard manures and commercial fertilizers, business customs, farm accounts, rights and privileges, the employment and direction of laborers, the use, care and repair of farm implements and machinery, grasses and forage plants, weeds and their eradication, swine, sheep and horse husbandry, breeds and breeding, vegetable gardening, etc.

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[8] A general agricultural law, chapter 338, was passed at this session. It established a department of agriculture under the supervision of a commissioner of agriculture, to be appointed by the Governor and Senate, and prescribed his powers and duties, and also numerous regulations concerning the administration of agricultural affairs.

This act, as amended L. 1900, chapter 101, was sustained in People v. Hills (1901), 64 App. Div. 584; as amended in 1902, chapter 30, adding sections 70e and 70f relating to slaughtering, selling, or shipping veal for food, in People v. Bishopp (1905), 106 App. Div. 266.

L. 1900, chapter 534, amending 1893, chapter 338, section 27, was held unconstitutional in People v. Biesecker (1901), 169 N. Y. 53.

L. 1901, chapter 308, amending 1893, chapter 338, section 50, was held unconstitutional in People v. Windholz (1904), 92 App. Div. 569.

The dairy-house practice comprises the making of butter and cheese by the most approved methods; testing of milk as to purity and fat content; the use and care of centrifugal separators and other creaming devices, and the details of creamery and cheese factory management, etc. Lectures also are given on the origin and formation of the various breeds of dairy and beef cattle; their selection and improvement; the improvement of native cattle and the formation of new breeds; the composition of stock foods and their combination into rations suitable for various purposes. It is worth noting in this connection that the average product of milk per cow on the university farm is three times as much as the average product of the dairies of the entire State.

All this is exactly in line with what the State is now trying to accomplish through miscellaneous agencies for the encouragement of modern methods of agriculture. The question presented is, whether official efforts cannot be combined with these private efforts in the interest of both economy and efficiency.

There are considerations of justice as well as of State profit in the State's utilizing Cornell University for the accomplishment of this purpose. Under the terms of the Federal Land Grant act the 990,000 acres allotted to the State were sold at about sixty cents an acre, and the proceeds made the endowment fund of the land grant college. The income from this fund is now about eighteen or twenty thousand dollars a year, and is practically the extent of the State's favor toward Cornell University. As a condition of being designated as the land grant college, however, the university was compelled to receive annually one student from each Assembly district of the State for free instruction. Under the natural construction of this provision there might at any time be 128 students receiving free instruction at the institution, but not more. In reality the number for some time was much less, inasmuch as some Assembly districts furnished no competitors for the scholarships. After some years the State insisted that the university should not only take annually one student from each Assembly district, but keep these 128 free students four years. Although contending that this construction of the law was contrary to the intention of the charter, the university made no protest and has been for years educating free of expense 512 State students. At the present rate of tuition fees this would represent an annual value of nearly $60,000, which is $42,000 a year in excess of the income from the original endowment granted by the State. Beyond this, the university also educates free of expense all students enrolled in the agricultural course.

Other States have been much more liberal toward their land grant colleges than the State of New York. Most of them have made appropriations for buildings and equipment. Since 1887 the State of Pennsylvania has provided several large buildings, among them an agricultural hall and creamery. The State of Ohio has appropriated $258,000 for the same purpose. The land grant college in California has received nearly $2,000,000 for buildings, equipment, etc., from the State. The Legislature of Wisconsin has given at least $350,000 for this purpose to its land grant college. Other States have made similar provisions. New York, however, has never voted a cent from the State treasury for Cornell University.

It is entirely, however, with a view to State advantage that I would urge the concentration at Cornell University of the various agencies for promoting scientific agriculture. To carry out this suggestion would not only enable the State to do more effective work immediately and at less expense, but would permit the State from time to time to extend its field of usefulness in this direction without the creation of new boards and new offices. The proper diffusion of knowledge with reference to the preservation of our forests is of vital interest to the future welfare of the State and could be attained through such an agency. The same is true of the spread of veterinary science. Public attention has only lately been called to the vast importance of this subject — not merely as it affects the value of our live stock, but because of its intimate relation to the question of public health. Modern science has demonstrated that a large proportion of human diseases is directly traceable to diseases in animals, conveyed through milk, meat, eggs and other animal food. Thousands of milch cows in this State, suffering from tuberculosis, are furnishing milk to families and thereby endangering human lives by the transmission of this dread disease. A proper regard for the health of the community will eventually demand scientific protection against dangers of this kind. Our State has already taken the initiative in this direction. But the chief obstacle to a correction of this evil is the lack of experienced and capable veterinarians.

Our State is too thoroughly committed to the encouragement of agriculture to abandon it. State energy and public money, however, should not be frittered away by misappropriation and misdirection. The time is ripe for the adoption of some comprehensive, systematic and intelligent policy which shall assure the best results at the least expenditure. Whether the suggestions I have outlined are the best for accomplishing these results I leave to your judgment.[9]

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[9] By an act passed in 1889, chapter 538, Cornell University was designated as the college within the State solely entitled to receive the benefits of the act of Congress of the United States, approved March 2, 1887, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of the act, approved July 2, 1862, and of the acts supplementary thereto." This designation was continued and confirmed by the agricultural law of 1893, chapter 338, section 87.

The supply bill, chapter 726, appropriated $50,000 for the erection of a building for instruction in dairy husbandry at Cornell University, and for its equipment. Such building was to be used "permanently for purposes of instruction and experiment in dairy husbandry, or other agricultural pursuits, subject to the approval of the Legislature or an officer of the State designated by it."

The agricultural law, section 86, provided that the State meterological bureau and weather service should thereafter be known as the State weather bureau, and be under the control and management of the commissioner of agriculture.

REGISTRATION IN TOWNS AND VILLAGES.

The requirement of personal registration each year in the cities of the State as a necessary preliminary to the exercise of suffrage has been a most effective agent in diminishing fraudulent voting. While it imposes hardships and to some extent discourages voting, its advantages are greater than its disadvantages, and it is now recognized as one of the best features of the reform electoral legislation of 1890. There is no good reason, however, why the safeguards thus thrown around the ballot in cities should not be extended to the towns and villages of this State. Such laws should, so far as possible, be uniform in their application. I therefore renew the recommendation contained in my annual message of last year, that the personal registration law be extended so as to include the remainder of the State within the territory of its operation.[10]

PRISONS AND PARDONS.

The State prisons last year came within $140,498.90 of being self-supporting. Prisoners were employed on about twenty-two different industries, and the earnings were $81,707.72 greater than those of the preceding year. At Auburn prison the earnings exceeded the cost of care and maintenance. Legislation at your last session wisely prohibited or restricted certain kinds of manufacture which were known to compete unfairly with free labor, and conditions will undoubtedly compel a similar readjustment of industries from time to time in order that convict labor may work no injury to free men. It would seem that after the State has assumed charge of the dependent insane a large part of the cost of maintenance might be saved by utilizing prison labor in the manufacture of clothing, shoes, etc., for the use of the inmates of the State hospitals.[11] This would tend largely to solve the prison labor question and would be an economical policy for the State. In this connection I recommend that the Superintendent of Prisons be properly authorized by law to employ some of the prisoners at Dannemora in road-building in the vicinity of the prison. The State controls the roads for about twenty miles around the institution and about 200 convicts could be employed in this work with benefit both to themselves and to that portion of the State. Clinton prison is so situated that the employment of convicts on roads outside the prison walls is not open to the same objections that it would be at the other State prisons.[12]

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[10] A bill was passed at this session by the Assembly, which required personal registration in country districts, but it failed in the Senate by one vote. The bill was a party measure, and its failure is said to have been due to the illness of a senator at the time the final vote was taken.

There is now standing unused at Auburn the handsome State building formerly occupied as a prison for insane criminals. I recommend its conversion into a prison for female felons. From a humane and reformatory point of view there is need of such a prison. It was the policy of the State prior to 1877 to maintain a separate prison for females, but since that year they have been sent to county penitentiaries, the State paying a *per diem* amount for their board and keeping. There are now one hundred and fifty-five female felons thus confined. The unoccupied building at Auburn is admirably adapted for such inmates. It would easily accommodate 200 prisoners, and is ready for use immediately. It could be used for this purpose better than for any other. The reasons for a separate prison for women readily suggest themselves — especially for female felons, who, as a rule, are not so depraved a class as the female prisoners with whom they are now thrown in contact at the county penitentiaries.[13]

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[11] The prison labor law of 1888, chapter 586, restricted the manufacture of articles in penal institutions to "such articles only as are commonly needed and used in the public institutions of this State, for clothing, and other necessary supplies of such institutions and the inmates thereof; and all the articles manufactured in such penal institutions, not required for use therein, shall be furnished to the several institutions, supported in whole or in part by the State, for the use of their inmates, upon the requisitions of the trustees or managers thereof, upon the superintendent of State prisons."

The Constitution of 1894 included a provision, article 3, section 29, which prohibited contract labor in prisons after January 1, 1897, but authorized the Legislature to provide "that convicts may work for, and that the products of their labor may be disposed of to the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State or any political division thereof."

An act passed in 1896, chapter 429, contained detailed regulations intended to carry into effect the new constitutional provision, and provided especially for the labor of prisoners, and for furnishing supplies to various public institutions and political subdivisions.

[12] Chapter 312, passed April 5, authorized the Superintendent of State Prisons to provide for the employment of not more than 300 convicts confined in Clinton prison in the improvement of public highways within a radius of twenty miles from the prison.

In 1894, by chapter 266, the act of 1893 was repealed and provision was made for the employment of not more than 300 convicts from any prison in the improvement of highways within a radius of thirty miles of the prison, but not in a city or incorporated village.

While at the State prisons during the year I gave personal hearings to convicts who had applied for Executive clemency. A large number of prisoners, many of whose applications had been on file in the Executive Chamber for years, were heard and many worthy applications for clemency were granted. The full list of pardons, with my reasons therefor, will be subsequently transmitted to the Legislature, as required by law.

It is suggested that more convicts might be permanently reformed after leaving prison if they could be kept from their former evil associates and vicious surroundings and allowed an opportunity to redeem their characters by beginning life anew in parts of the country where they and their criminal past are not known. Slight changes in the law would empower the State agent for discharged convicts to find such homes and employment for these persons, and through this practical philanthropy many a criminal might be permanently reformed. The suggestion is respectfully submitted to the attention of the Legislature.

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[13] The Governor's suggestion was adopted, and by chapter 306, passed April 4, the asylum for insane criminals at Auburn was to be thereafter known and used as a State prison for women.

THE COAL COMBINATION.

During the last year there has been formed a powerful combination between certain railroads and coal companies with the apparent purpose of exacting higher prices from the consumers of anthracite coal. The combination differs from similar organizations in certain respects which make competition absolutely impossible. So far as is now known, practically all the anthracite coal in the world is contained in three counties in Pennsylvania, and eighty-five per cent. of the entire traffic is controlled by the coal combination. The consumers are at the mercy of the combination. It can raise the price of anthracite coal as high as it can find purchasers. The price has increased seventy-five cents a ton within a year. The only apparent limit to the extortion is the refusal of the people to buy. In that case they must use bituminous coal or wood, or perish with the cold.

These conditions present a state of affairs that challenges serious consideration. Have the people of this State any means of legislative relief against such a monopoly of a natural and necessary product? The question is worthy of your earnest attention. If the companies engaged in this combination enjoy public privileges granted by the State of New York, the State should exercise its undoubted right to impose conditions upon the enjoyment of those privileges, and such conditions should at least guard the people from unwarrantable exactions in return for privileges which the people through their representatives have conferred.[14]

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[14] Chapter 716, approved May 17, prohibited monopolies or trusts in restraint of competition in the supply or the price of any article or commodity of common use in this State for the support of life and health.

THE ADIRONDACK PARK.

The preservation of its forests, and thereby the protection of its water courses, has become the established policy of the State. It is a movement which is heartily approved by the people. It is of vital importance to the future of the State. The practical working out of the policy, however, is full of difficulties, and the State has taken varying attitudes as to modes of procedure. It must be confessed that the results to-day, after nearly seven years' effort to establish an Adirondack park, are disappointing. While much good has been accomplished, there has been a lack of well-defined policy and business-like management which has prevented a full measure of success. Part of this has been due to the law and part to its administration.

Last year the Legislature passed an act which defined the limits of the proposed park and authorized sales of all State forest lands outside of those limits and, with the proceeds, the purchase of new lands within the limits. It was estimated that the State owned then about 900,000 acres, half of which was located in detached pieces around the edge of the forest and could be sold at a price per acre sufficient to buy a larger number of acres within the limits of the proposed park. This is well enough so far as it goes, provided the sales and subsequent purchases are conducted on a business-like basis. But the trouble with this policy is that it puts the government in the market as a buyer and seller, and opens the way to all kinds of impositions and frauds. While it must answer the temporary purpose of getting rid of lands useless for a forest preserve and ac-

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Chapter 391, passed April 14, applicable only to cities with a population exceeding 800,000 and less than 1,200,000, prohibited sales of coal therein by the ton or fraction thereof, except upon the basis of a ton of 2,000 pounds avoirdupois, and imposed a penalty for a violation of the act. The mayor was to appoint a coal inspector to attend to the enforcement of the act.

See also L. 1897, chapter 174, intended to provide for the protection of purchasers of coal in cities of the first and second classes.

quiring other lands needed, so far as the proceeds of the sales will permit, it will not do for a permanent and exclusive State policy.

If it is the desire of the people that the State should absolutely own two or three million acres of the forest preserve, the lands should be acquired at once by right of eminent domain. The operation should be comprehensive and decisive, and performed in this way it would be vastly more economical in the long run than the present policy of purchase by driblets.

If on the other hand the people are indifferent as to whether the ownership of the bulk of the great forest is in private persons or in the State, so long as the forest is preserved perpetually from destruction, then by a new departure the purpose of preservation can probably be accomplished without any great expenditure of public money.

It is well known that vast tracts of the Adirondack forest are now owned by individuals or by private associations and are used mainly for purposes of recreation. These large private preserves, I venture to say, could be forever guarded against the danger of denudation by a sufficiently liberal contract between the owners and the State, and would thus serve the main purpose of the public preserve. These private owners at present are as much interested in the preservation of their tracts as the State could possibly be, and some of them, I know from personal assurance, would be willing to enter into an arrangement with the State whereby, in consideration of forest protection furnished by the State and exemption from State taxation, they and their grantees would refrain forever from removing the timber except under certain conditions imposed by the State. I feel confident that hundreds of thousands of acres could thus be practically added to the State preserve at comparatively little expense. Whatever land it might be necessary to buy outright could be bought under proper safeguards. Such a policy, it seems to me, if it could be carried out, would give greater satisfaction to the people, for it would save large expense, and — what is worse — great possibility of scandal.

If this suggestion should meet the approval of the Legislature the necessary legislation to carry it into effect should be enacted without delay, for each year's devastation of forest land is making more difficult the attainment of the State's object. With such legislation I recommend the reorganization of the Forest Commission. It does not seem to me wise that this should be a permanent commission as at present. I think that much more satisfactory results could be obtained were the commission created for a fixed time and for the definite purpose of establishing the proposed park within that time. Energy, promptness and intelligence are greatly needed. A special commission appointed for a definite purpose would bring aspiration and pride to the performance of its great mission. The commission should consist of at least five persons, nominated by the Governor and confirmed by the Senate, and should be composed of active, capable and honest men, selected for their peculiar fitness to discharge this task creditably to themselves and to the State. After such a commission has completed its labors, its services should be discontinued, and the detail work of maintenance, oversight and protection of the forests should be left to trustworthy and competent officers under the direction of the Comptroller or State Engineer, or under a commissioner of agriculture, should such an office be established. A bureau of forestry, as a part of a well-organized department of agriculture, would be the most natural and most desirable disposition, and should accomplish much good, not merely in guarding the forest preserve, but in subserving the agricultural interests of the State.

The establishment of a great forest preserve could be made to pay all or a large part of its cost under intelligent and wise legislation and supervision. Without injury, but rather with benefit, the State could acquire considerable revenue by granting permission to fell trees above a certain diameter on State lands. Additional revenue could be obtained from leases of small parcels of land to individuals for the establishment of summer homes under proper regulations, as is provided in the existing statute.

I would also call the attention of the Legislature to needed amendments in the laws governing the cancellations of tax sales. Upon flimsy pretexts of one kind or another the State has lost nearly 100,000 acres of forest land since 1886 through these cancellations. The State having legitimately come into possession of large tracts of Adirondack lands through failure on the part of owners to pay taxes, it should not be exposed to the loss of this now valuable possession by technical defects in legislation or administration which are taken advantage of by Adirondack speculators. Not another acre of State land should thus be yielded up. The present laws are defective and should be promptly amended before there is any further loss of timbered land.[15]

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[15] A general law, chapter 332, relating to the forest preserve and Adirondack Park, was passed at this session. It provided for a forest commission of five members, to be appointed by the Governor and Senate, and also for superintendents, assistant superintendents and other subordinate officers. The act provided for taxation of forest preserve lands. The term of office of the commissioners was fixed at five years, but on the expiration of this term the powers and duties of the commission were to be devolved upon the commissioner of agriculture.

The Constitution of 1894 included a provision, article 7, section 7, that the forest preserve should be forever kept as wild forest lands. "They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold. removed or destroyed."

A constitutional amendment modifying this provision was submitted to the people at the November election in 1896, and rejected. The amendment authorized the Legislature to provide for the lease or exchange of forest preserve lands.

An act passed in 1900, chapter 20, included a revision of the statutes relative to the forest preserve and the Adirondack Park.

UNIFORMITY OF LEGISLATION.

Substantial progress has been made by the commission appointed to promote the uniformity of legislation in the United States relative to the subjects of marriage and divorce, insolvency, notarial certificates, etc. New York took the initiative in this movement and has succeeded in interesting many other States in its success, although there are some which have yet failed to provide for the necessary commissioners to represent them at the conferences. The movement is a praiseworthy one because it is founded on the recognition of the principle of State sovereignty, and aims to secure uniformity of legislation among the several States by the voluntary co-operation of each rather than by federal legislation. It should receive the continued encouragement of the Legislature.[16]

CARE OF THE INSANE.

The policy inaugurated by the State in 1890 of assuming the entire care and custody of the dependent insane will go into final effect during the present year. The work of preparation is nearly finished; nine State hospitals, costing upwards of $10,000,000, have been put in readiness; about 7,900 patients from the county poor-houses have been placed in the State hospitals, and the remainder (about 700) are expected to be transferred before May first. It will be incumbent upon the Legislature, therefore, to make provision for the maintenance and support of nearly 9,000 patients.

This obligation is a serious one in its relation to taxation, and demands close scrutiny. It will considerably increase the annual State tax rate. It has been carefully computed by the Commission in Lunacy that the aggregate cost to be provided for by legislative appropriations, including salaries, clothing, transportation, etc., will be about $1,300,000. The State has been in the habit of providing for about $200,000 of this sum, so that the actual ordinary increase of taxation will be about $1,100,000. In addition the Commission in Lunacy estimates that provision will have to be made for an increase of 440 patients for the year ending October 1, 1894. These additional accommodations can be supplied by judicious enlargement of existing hospitals rather than by the construction of new institutions.

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[16] As to uniform legislation and the enactment of a general negotiable instruments law, see 1890, note 17, *ante*, vol. 8, p. 929.

Of course the assumption of this burden by the State relieves the counties to that extent. In fact the relief is much greater, for by the State Care Act the counties of New York and Kings are exempted from its provisions, and those counties will continue to care for their own dependent insane, and must necessarily share at the same time the cost of maintaining the State insane. Until they shall avail themselves of the privileges of the State Care Act the effect of State care will be to afford a large saving to almost every county in the State.

If the total cost to the State shall be in the neighborhood of $1,300,000 annually, the State tax rate will be increased by about one-third of a mill on last year's valuation. I recommend to the Legislature that all appropriations granted for the State hospitals for the insane be hereafter included in one act, and that the rate of tax for this purpose be fixed and levied separately from the general tax for the support of government. Thus the people will always know exactly what they are paying for the maintenance and support of these institutions.

I am convinced from personal examination that the policy of the State's caring for its poor insane is a most praiseworthy philanthropy when compared with the county system which had prevailed for so many years previously, and which in many cases justly excited the horror and disgust of all friends of humanity. But the great danger of this assumption of responsibility and expense by the State is maladministration. Corruption, extravagance and the improper injection of politics into hospital management will be constant foes, which if not combated and overcome will bring reproach upon the State and prevent the accomplishment of much good. Legislation should be designed to require strict accountability, and all possible avenues for extravagance should be closed. I have observed that there are remarkable differences of cost now between the different institutions in the same classes of expenditure. For instance, in one hospital the cost of fuel has been proportionately much higher than in other institutions; in another the cost of various articles of food was proportionately greater, and so on. The difference in environment did not seem to account entirely for these decided variations, and the conclusion was inevitable that the management was at fault. This could all be remedied by proper legislation and careful administration. As one means of accomplishing this end the Legislature should require that all moneys should be paid on the warrant of the Comptroller upon monthly estimates prepared and approved as in the case of the State prisons, and that all receipts of the State hospitals shall be turned into the State treasury. It is worth calling attention to that during the past three years there has been a steady reduction in the *per capita* cost of maintenance in every hospital except two, and these exceptions were not occasioned by any fault in administration, but by changed conditions.

The hospital buildings, which I have had the pleasure of inspecting during the past year, are without exception creditable to the State and well adapted for their purpose. The increased accommodations provided by recent acts of the Legislature are of a comparatively cheap type, but are of excellent material and show substantial workmanship.[17]

The number of committed insane in the State on October 1, 1892, was as follows:

State hospitals	7,832
Licensed private asylums	902
Asylums of New York and Kings counties	7,887
In county poor-houses awaiting removal	802
Total	17,423

PROPAGATION OF FISH.

At the last legislative session I vetoed two bills establishing new fish hatcheries.* A personal investigation during the summer into the work of the Commissioners of Fisheries, including visits to some of the existing hatcheries, persuaded me that only three out of the five hatcheries are located properly for the successful propagation of fish. It is unfortunate that public money has been thus misappropriated. I suggest that hereafter, when in the judgment of the Legislature new hatcheries are needed, the location of the same be left to the discretion of the Commissioners of Fisheries. They are presumably better qualified by reason of their expert knowledge to judge of the comparative merits of different localities as places for fish culture, and such a transfer of responsibility would check a tendency recently observable in the Legislature to make the creation of one new hatchery depend upon the creation of one or more others.

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[17] Chapter 214, passed March 25, levied a tax for the support of the insane poor in the State hospitals. and provided for monthly estimates of expense and other details of administration intended to promote economy of expenditures and more efficient supervision.

The Constitution of 1894, article 8, section 11, required the Legislature to provide for a State Commission in Lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots).

The insanity law, chapter 545, was passed in 1896. It provided for a commission in lunacy, to be composed of three members appointed by the Governor and Senate, and prescribed the qualifications, powers and duties of the commissioners. The act also contained provisions relative to the supervision of the State hospitals, and the care of the insane.

**Ante*, pp. 38, 43.

The Commissioners of Fisheries are continuing the stocking of lakes and streams and with apparently good results. Their efforts should be directed mainly, however, to increasing the supply of food fish. Merely as conservators of sportsmen's interests their official existence and powers would scarcely be justified by the taxpaying public. The scope of their responsibility and the measure of their opportunity are much wider than is prescribed by any such narrow field. There are 1,500 square miles of water within the area of our State, capable of producing an unlimited supply of fish food — thus cheapening in large degree the cost of living to the people, creating additional employment and adding to the State's wealth. Every stream might be made to yield largely to the food supply of the farms through which it runs, and every lake might give means of livelihood to more men and furnish cheap, palatable food to more families. Liberal stocking of Lake Ontario with white fish, pike and lake trout, assisted by proper regulations for catches, would build up an important industry in that vicinity, profitable alike to the fishermen and to the public.

As a step in this direction I am informed that about 10,000,000 white fish will be placed in Lake Ontario during the coming year.

I bespeak for this subject the earnest consideration of the Legislature, believing that with comparatively small expenditure great good can be accomplished.[18]

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[18] Besides appropriations for existing fish hatcheries, two additional hatcheries were established, one by chapter 39, at Cold Springs in the county of Steuben, and the other, by chapter 362, at a place in Sullivan county to be designated by the fish commissioners.

OYSTER CULTURE.

I inspected with great interest during the summer the oyster beds along the southern shore of Long Island sound. The State has the opportunity here to develop an important industry, giving employment to thousands of men, enriching the people by millions of dollars and yielding, under proper laws, considerable revenue to the State treasury. It was in 1887 that the act to encourage oyster planting in Long Island sound was enacted, and up to that time very little had been done in the deep-sea cultivation of oysters, the planters who supply the markets relying almost entirely upon Virginia for sea oysters for cultivation. During the last five years the industry has made such rapid progress that now conservative estimates place the value of the oysters lying on the beds of Long Island sound at $1,500,000 and the number of men employed in the industry at 10,000. During the past year 116,000 barrels of oysters, valued at $580,000, were shipped to Europe from New York city.

There are about 400,000 acres of water area in the sound which are available for oyster culture under the provisions of the act of 1887. Of this number upwards of 17,000 have now been leased. The law provides that plots may be granted to the highest bidder for a perpetual lease. So little has been known about the industry that the greater number of these grants has not brought to the State more than one or two dollars an acre. It has been demonstrated, however, that while the business is attended by considerable risk, there is an extraordinary percentage of profit when it is at all successful. For this reason recent bids for grants have been somewhat higher, and the prospect is that hereafter the desire to secure oyster beds will bring a larger revenue to the State.

These are destined to become valuable franchises, however, and in my opinion the law does not sufficiently protect the interest of the State in this regard. The State's leases should not be perpetual, but for a reasonable period of years. It is alleged that these grants are perpetual only in name, since the beds become exhausted after a period of years and after non-usage revert to the State; but notwithstanding this defense it would seem a wiser and more business-like policy if the Commissioners of Fisheries were empowered to make leases for only a limited period of time, so that at the expiration of old leases the State might be in a position to impose new conditions that would insure a reasonable annual rental to the State in case the franchise should then be found to be very valuable.

In the development of the oyster industry the State can take just pride, and all proper legislation should be afforded for its encouragement. But valuable public franchises should be made to yield a revenue to the State commensurate with the value of the privileges granted.[19]

CONSTITUTIONAL CONVENTION.

So far as the Executive can ascertain, there seems to be a strong current of popular sentiment throughout the State in favor of the postponement of the election of delegates to the Constitutional Convention from the second Tuesday of February till the general election in November. The expense of an election in February would be between six and seven hundred thousand dollars, which should be saved to the taxpayers if possible. It would be possible, of course, for the law to be amended, so as to permit the election of delegates at charter elections and town meetings. But this would not obviate the necessity of a separate election in New York and Brooklyn, and the election of delegates would not take place concurrently in all election districts of the State — a condition which, I fear, might lead to complications in the choosing of delegates.

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[19] Chapter 321 amended section 197 of the game law, and provided for leases of land for oyster beds by the commissioners of the land office, such leases to be made to the highest bidder after public notice, but not to be for a sum less than $.25 an acre, nor for a period longer than fifteen years.

The only argument in favor of the separate election is that a better class of delegates is likely to be chosen. Even were this true, and the contention in my judgment is open to question, there is grave doubt whether the advantage would not be nullified by the apparent disinclination of the people to have an election at this time, so soon after the exhaustion of a presidential election — a disinclination that would probably result in the polling of a very light vote, because of lack of interest.

The act itself providing for a constitutional convention is somewhat faulty in construction, and it is asserted by competent legal authority to be of doubtful constitutionality in its provisions authorizing the appointment of delegates. These provisions were designed to give minority representation to labor and prohibition interests, whose voting strength is not sufficiently concentrated to enable them to secure representation by the ordinary means of election. In my judgment that sort of representation should also have been allowed to women suffragists, as the bill originally provided. But if minority representation by appointment is unconstitutional, the suggestion is respectfully submitted whether it cannot be secured by election without violation of the Constitution.[a] While it may be conceded that minority representation is unconstitutional when applied to the election of the usual State and local officers, there is ample precedent for its application to the election of delegates to a constitutional convention. The Constitutional Convention of 1867 included thirty-two delegates at large, of whom no elector could vote for more than sixteen, and the present judiciary article of our Constitution is a part of that convention's work, and nobody has ventured to question its validity. If it should be deemed best to retain that feature of the present Constitutional Convention Law, and it is necessary to abandon the provision for appointment, I would suggest its modification to the extent of permitting representation of more than one minority interest. It would add to the representative character of the convention if organized labor, prohibition and woman suffrage advocates might in this way participate as full members in the proceedings.

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[a] Const. 1846, art. 2, § 1.

So important a measure as that providing for a constitutional convention cannot be too carefully drafted. It should be constructed so as to assure complete representation and at the same time able representatives. If the Constitution is to be revised the revision should be in capable, safe hands. Owing to the limited time before the date fixed for the election of delegates, legislative action must be prompt. If it is not the desire of the Legislature to postpone the election, the law should at least be modified in its faulty and unconstitutional features.[20]

THE USE OF MONEY IN ELECTIONS.

The part of our electoral machinery which now most needs strengthening by legislation is that relating to the use of money in elections. The Legislature has made it impossible to bribe voters with any degree of assurance that they will vote as they have been bribed, but notwithstanding the statutory safeguards it is notorious that money is still spent in elections for corrupt purposes. The active agents in the corruption are apparently either willing to trust the corrupted voter to vote as he has been bribed, or the corruption takes the form of pecuniary inducement to the elector to remain away from the polls.

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[20] Chapter 8, passed January 27, amended the convention act of 1892, by providing that delegates be chosen at the general election in November, 1893. The original act was further modified by providing for a convention of 175 members, 160 to be chosen by senate districts, five from each, and fifteen from the State at large. The power originally conferred on the Governor to appoint eight members of the Convention was abrogated. See 1892, note 3, *ante*, p. 13.

I am not confident that this state of affairs can be thoroughly remedied by law. The most potent instrument of reform is wholesome public opinion. No law, however stringent, can be effective without the earnest support of popular sentiment.

But every law aimed at this evil and every agitation of it are influential in properly shaping public opinion. An end must come soon to wholesale bribery. Persons familiar with campaign management stand aghast at the rapid increase of purchasable voters from year to year. A reaction towards honester methods of conducting elections will be welcomed by political managers no less than by the general public. Agitation and legislation are at least aids to this end.

A defect in what is now known as our Corrupt Practices Act is that political committees are not required to file certified statements of their receipts and expenditures. While the statute compels this duty on the part of candidates, it leaves political committees and agents free to conceal both the source of their revenues and the purposes of their expenditures. The extension of the provisions of the law to political agents and committees would make the financial transactions of such committees a matter of public record as they should be, and would tend to discourage the contribution of large amounts of money by individuals. Such a law is now in force in Massachusetts, having been enacted recently. It should be drawn with rigid provisions which will permit no evasion.[21]

Another proposed remedy for the evil of corruption is such legislation as will make proof of bribery on the part of candidates or their political agents or committees sufficient cause for forfeiture of office. Great Britain has such a law. Our laws already disfranchise those who are convicted of bribing voters, but they practically protect the beneficiary of this crime by leaving him in possession of the office unless it can be proved that the bribed votes which he received more than equaled the amount of his plurality. Candidates and committees would hesitate to expend money corruptly if proof of the act would be a disqualification for office. Properly administered, such a law might be a complete check on corruption.

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[21] In 1906, by chapter 502, political committees were required to file in the office of the Secretary of State a statement of their campaign expenses.

I recommend these proposed changes in our election laws to your attention, and trust that some practical good in the direction of diminishing bribery may be accomplished at the present legislative session.

GOOD ROADS.

The subject of good roads is exciting a remarkable interest throughout the country. By popular agitation and through the newspapers the movement is beginning to find expression in State legislation, and if it goes on with its present momentum will revolutionize conditions now prevailing in nearly all rural localities.

While having no sympathy whatever with that phase of this movement which seeks the establishment of a national bureau of roads and the consequent building of national roads through the country, I am thoroughly convinced that the prosperity of our own State, and especially the interests of its agricultural sections, demand prompt and effective efforts to improve the condition of our highways. It has long been admitted generally that our present system of highway improvement is indefensible, either from the point of view of economy or from the point of view of efficiency. Yet annual spasmodic efforts have been made here and there to establish permanent and durable roads, or even to change the antiquated method which has so long prevailed. As is well known the principal features of our highway legislation and practice is what is comprehended by the so-called "working" system, and with a view of getting at reliable statistics as to the actual cost at present of highway maintenance and construction under this system, I have sent communications to the town clerks in the State, requesting them to furnish me with figures which would be of use in such a computation. I have received replies from only about a third of the towns. Yet the figures received afford a reasonable opportunity of computing with more or less degree of accuracy the approximate cost in each county. I have endeavored chiefly to ascertain the total number of days' work performed in a year on the highways of each county, and also the total cash expenditures for highway improvement in each county for one year. The following table presents the results of my computation. In estimating the total money cost in each county I have added to the cash expenditures the number of days' work performed as valued at one dollar for each day. The figures do not in any case include the cost of road improvement in cities and villages. The table is as follows:

COUNTIES.	No. days' work performed.	Cash expenditures.	Total annual cost.
Albany	43,704	$15,831	$59,535
Allegany	48,070	33,996	82,066
Broome	31,876	15,780	47,656
Cattaraugus	65,109	28,347	93,456
Cayuga	29,127	10,455	39,582
Chautauqua	36,475	30,925	67,400
Chemung	25,608	15,037	40,645
Chenango	28,749	34,681	63,430
Clinton	23,968	18,402	42,370
Columbia	30,842	21,056	51,898
Cortland	18,060	6,060	24,120
Delaware	32,623	1,800	34,423
Dutchess	23,280	35,340	58,620
Erie	77,448	22,882	100,330
Essex	43,074	9,936	53,010
Franklin	41,496	18,691	60,187

COUNTIES.	No. days' work performed.	Cash expenditures.	Total annual cost.
Fulton	16,960	$8,230	$25,190
Hamilton	....	....	....
Genesee	33,278	19,512	52,790
Greene	14,014	5,712	19,726
Herkimer	28,785	6,650	35,435
Jefferson	55,968	33,792	89,760
Kings	....	....	....
Lewis	20,178	14,076	34,254
Livingston	28,883	14,365	43,248
Madison	44,884	10,724	55,608
Monroe	42,284	25,850	88,134
Montgomery	32,390	15,000	47,390
New York	....	....	....
Niagara	28,548	13,236	41,784
Oneida	42,432	30,522	72,954
Onondaga	52,060	16,359	68,419
Ontario	43,136	29,248	72,384
Orange	48,256	24,890	73,146
Orleans	17,640	12,000	29,640
Oswego	47,250	10,962	58,212
Otsego	45,400	18,540	63,940
Putnam	14,760	3,555	18,315
Queens	....	....	....
Rensselaer	31,840	19,120	50,960
Richmond	....	....	....
Rockland	....	....	....
St. Lawrence	68,203	20,832	89,035
Saratoga	30,280	14,172	44,452
Schenectady	....	....	....
Schoharie	25,484	10,490	35,974
Schuyler	....	....	....
Seneca	12,661	6,140	18,801
Steuben	64,704	40,000	104,704
Suffolk	....	....	....
Sullivan	31,272	4,854	36,126
Tioga	25,182	10,000	35,182
Tompkins	21,720	8,000	29,720
Ulster	55,560	61,126	116,686
Warren	....	....	....
Washington	28,764	7,276	36,040
Wayne	40,746	9,790	50,536
Westchester	10,910	74,407	85,317
Wyoming	31,568	9,744	41.312
Yates	20,805	11,454	32,259
Total	....	....	$2,715,761

Where insufficient returns upon which to base an average have been received from any county no estimate is made for that county.

It will be observed from this table that fifty counties in the State are now paying annually in labor and cash about $2,700,000 upon their highways. This is an average of about $54,000 for each county. I venture the assertion, which I think will be generally corroborated by those who have seen the methods of work now employed on country roads, that a large proportion of this expenditure is practically wasted. With no greater expenditure, but under a different system, each county might be covered with fine macadam roads with all the resulting advantages in appreciation of property and in economy of transportation. It is difficult to estimate the average cost of macadam roads in our State because of the varying conditions in different localities; but a reasonably conservative estimate by engineers is $7,000 a mile as the cost of first construction, with an annual cost for maintenance and repairs of about $300 a mile. If this estimate is correct, the present average cost of highway improvement each year in the counties of the State, reducing the labor performed to a cash valuation, would pay the interest and provide for the sinking fund on a sufficient issue of bonds to construct 150 miles of road in each county — viz.: The cost of 150 miles of macadam road at $7,000 a mile would be $1,050,000, the interest on which would be $42,000 per annum at four per cent., leaving $12,000 a year to be applied to a sinking fund. From the table given above, with an accurate knowledge of the cost of construction of macadam road in their locality, the citizens of each county can ascertain more precisely how many miles of good highway may be built in their locality without any greater outlay of money and labor than is required by the present system with its wretched results. Of course a good gravel road would cost much less than a macadam road — probably not to exceed $3,500 per mile on the average.

There can be no substantial improvement in the country roads of this State so long as the law compels the continuance of the present system of subdivision into minute road districts, averaging scarcely more than a mile each in length. Whether the repairing of the road in each district be done by actual labor of the inhabitants thereof, or by employees paid by money commutation for such labor, the unsatisfactory result will be substantially the same, for two principal reasons:

First. The tendency in each little district is to make roads only for its own inhabitants and not for the inhabitants of other districts. The character of each leading market road throughout its entire length thus tends to be kept down to that of the worst road in any one of the little districts into which it is subdivided. The load the farmer can carry to market is determined by the worst point in the entire road he must traverse. The people of each district naturally say, "If the other districts will not make good roads for us, they do not deserve that we should make good roads for them, and there is but little advantage in our making such short strips of good road for ourselves." Under such a system there can be no concerted action for a uniformly good market road, and the inevitable result is a uniformly bad road.

Second. The smaller the area of taxation the more economical will be the taxpayers, whether the tax be paid in labor or money. The country road district is the smallest area of taxation in the State, and by the inevitable tendency of human nature the country roads receive the stingiest treatment of any of the public works. Each locality is extravagant enough in its demands for local improvements at the State expense, for each inhabitant of the locality thinks that the rest of the State pays the entire tax. But each inhabitant of a road district naturally seems to think that he is paying all the expense of any improvement in his local road.

The primitive system of repairing country roads has long been outgrown, but is imbedded in the law, and the practice must continue so long as the law remains unchanged. The Legislature cannot make better roads, but it can remove any obstructions to road improvement which exist in the laws.

Between the two extremes of extravagance in State expenditures and stinginess in local expenditures for local improvements, the county-road system is suggested as the golden mean. At least the leading market roads in each county should be maintained by county taxation, expended under the supervision of a competent county engineer, subject to the general direction of the board of supervisors.

It is suggested that the Legislature should pass a general law prescribing certain kinds of improved roads, outlining the methods of raising and expending the necessary moneys, and authorizing any county, upon the vote of the board of supervisors, to avail itself of the provisions of the statute.

It seems needless at this stage of the movement toward better roads to point out the material advantages of improved means of communication over country highways. Not only will good substantial roads improve the value of every acre of land in their vicinity, but they are of direct pecuniary advantage in saving expense of transportation, and in bringing the farmer into closer and therefore often more profitable communication with the towns. Careful estimates have shown that an ordinary horse will draw on macadam roads over three times the load he can draw on a dirt road. This saving of transportation in itself would amply compensate every locality for whatever extra burdens of taxation, if any, the construction of macadam roads would impose.

I earnestly invite the attention of the Legislature to this great question, impressed as I am with its material importance to the interests of the whole State.[22]

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[22] The Governor's suggestion as to county roads was in substance embodied in chapter 333, passed April 7, amending the highway law of 1890. As to good roads see 1890, *ante*, vol 8, p. 1041.

QUARANTINE.

During the months of August, September and October last the country was threatened with the introduction of cholera from infected foreign ports, and the quarantine facilities at the port of New York were shown to be entirely inadequate for coping properly with this dread disease under existing circumstances. Owing to the vigilance and fidelity of the health officer and his deputies, however, cholera was prevented from gaining an entrance through this port, and both our own citizens and those of other States were fortunately spared from the pestilence.

Between August thirty-first and October fourteenth there were over 80,000 inspections at Quarantine, and at one time during this period several thousand passengers on cholera-infected vessels were detained until danger of conveying the disease was passed. The quarantine facilities were insufficient to accommodate this unusual population, and in the emergency the Executive authorized the Health Officer to purchase additional accommodations on behalf of the State. This was done by the purchase for $210,000 of the Surf Hotel and grounds at Fire Island, which seemed to be the only suitable place then available for quarantine purposes. An additional expense of about $20,000 was incurred by the necessity of calling out part of the National Guard and the Naval Militia to protect the State in the possession of its purchase at Fire Island, and other unusual expenses amounted to about $26,000. These extraordinary expenses must be provided for by legislative appropriation, and it will also be incumbent upon the Legislature to ratify the purchase of Fire Island and make such permanent disposition of it as may seem best. Whether the place is well adapted for a quarantine station should be carefully considered.[23]

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[23] Governor Flower's purchase of a part of Fire Island for quarantine purposes was ratified by chapter 111, passed March 9, by which the State accepted the contract made by the Governor for the purchase, and provided for the

While cholera was successfully kept from our State in this instance, it behooves the Legislature to make ample preparation against a possible invasion of the disease during the approaching spring and summer. The scenes attending the detention of steamship passengers at Quarantine last September should not be allowed to occur again by reason of any lack of quarantine facilities. The people will justify liberal expenditure if this is necessary to secure ample protection to public health, and any invasion of disease arising through legislative negligence or official incapacity will receive, as it should, the severest condemnation of the public. The Quarantine Commissioners and the Health Officer of the port of New York will recommend certain improvements at Hoffman and Swinburne islands, and certain additions to present facilities, the aggregate cost of which is estimated at between two and three hundred thousand dollars.[24]

Such legislation as is necessary should be promptly enacted, so that the work of improvement may begin as soon as possible.

Legislation is also needed to strengthen somewhat the power and resources of the State Board of Health. Pro-

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payment of the purchase price. The act recited the contract, and directed the payment of $160,000, the amount remaining due on the contract, and $50,000 advanced by Governor Flower with interest, amounting in all to $211,500.

Chapter 533, approved May 2, appropriated $69,913.14 for the extraordinary expenses incurred by the quarantine commissioners made necessary by the threatened invasion of cholera, together with $1,400 for interest on the Comptroller's bonds issued to raise the money for such expenses.

Chapter 555, approved May 4, made an appropriation for expenses of the National Guard in connection with the railroad strike at Buffalo, and also for the expenses of the National Guard at Fire Island, but the act did not specify the amount appropriated for each purpose.

[24] The supply bill, chapter 726, appropriated $103,950 for various improvements on Hoffman Island and Swinburne Island. See veto of May 18, showing items amounting to $270,000 stricken from the supply bill on account of appropriations for quarantine improvements on Hoffman and Swinburne Islands.

tection against disease is required not only at the port of New York but also along the northern border of the State. During the threatened epidemic last year inspectors of the State Board of Health were placed at all points of entry from Canada, and a rigid inspection was enforced. This is scarcely less important than ample quarantine facilities in New York harbor, and the State Board of Health should not be hampered by insufficient funds or lack of authority in critical emergencies.[25]

The subject of an exclusive national quarantine is just now exciting considerable popular discussion, and seems to commend itself to the approval of many of our citizens. I cannot but think that this is a superficial conclusion, formed upon impulse and based upon theoretical rather than practical conditions. It has become too much the tendency of our time to appeal to the federal government for the correction of all evils, the accomplishment of all public works, and the performance of all public functions. I confess that I am not yet convinced that the old-fashioned Jeffersonian theory of self-government must be laid aside for the adoption of a centralized government exercising a great variety of functions which the States or the people can best discharge for themselves.

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[25] A general public health law, chapter 661, was passed at this session, which provided, among other things, that "the State Board of Health shall take cognizance of the interests of health and life of the people of the State, and of all matters pertaining thereto. It shall make inquiries in respect to the cause of disease, especially epidemics," and other matters relating to public health.

Section 41, adulteration, was sustained in Crossman v. Lurman (1901), 57 App. Div. 393, aff'd in (1902), 171 N. Y. 329, and 192 U. S. 189.

Sections 140, 153, amended 1895, chapter 398, practice of medicine, was sustained in Hawker v. New York (1897), 170 U. S. 189, affirming 152 N. Y. 234.

Section 200, vaccination of school children, was sustained in Re Walters (1895), 84 Hun, 457; Viemeister v. White (1904), 179 N. Y. 235.

Section 20, authorizing county judge to appoint members of city board of health, was held unconstitutional in People ex rel. Bush v. Houghton, 182 N. Y. 301.

All departures from the Jeffersonian idea have been made upon impulse in the name of the public welfare, and the present agitation for an exclusive national quarantine finds justification in the same plea. While it may be conceded that there would be advantages in such a quarantine, I question whether the people of this State would willingly intrust so important a matter as the preservation of the public health to the exclusive jurisdiction of the federal government. With as much reason could the people of the State be asked to surrender to the federal government the control of their militia, or the people of New York or Brooklyn be asked to surrender to the State government the control of their local police. Jurisdiction over the public health is analogous to jurisdiction over public order and should be kept as closely within the control of the State. The people of other States, to be sure, are closely concerned lest disease find an entrance to the country through the State of New York, but so they are lest railroad traffic be stopped for days or weeks because of a riot in this State, and the remedy is no more to be found in the federal government's usurping the quarantine powers of the State in the one case than it is in the federal government's usurping the police powers of the State in the other case. Inefficiency of State quarantine or inefficiency of State militia is no reason in itself for supremacy of federal quarantine or for supremacy of federal jurisdiction over State militia. The people of each State are more vitally interested in the preservation of health and the preservation of order within their own borders than the people of other States, and better service will be secured from administrative officers who are directly accountable to the people of their own State and locality than to the federal government.

I am not opposed to a national quarantine, but to an exclusive national quarantine, such as is urged in contemporary discussion. There is a field in which the federal government must exercise quarantine powers. This field offers opportunity for realizing all the advantages urged for an exclusive national quarantine, without incurring any of the disadvantages. Our great danger from cholera and other pestilent diseases is not from their origin in this country, but from their introduction from abroad. The important thing, therefore, is to prevent this foreign invasion. The federal government already has it within its power, through its consular service, to exercise as stringent a quarantine against the importation of infectious and contagious diseases into this country as could be accomplished in any other way. Except at its own peril no vessel containing infected baggage, freight or passengers can leave any foreign port for this country without the connivance or neglect of federal officers. Every consul, his agent or medical representative, is compelled by law to ascertain whether a vessel sailing for this country is entitled to a clean bill of health, and without that clean bill of health and consular certificate the owners of every vessel know that it is impossible for her to enter the port of New York. Why did cholera reach the port of New York last summer? Because of the failure of United States consuls to discharge their full duty — because of the failure of federal quarantine. Why did cholera practically not get beyond the gates of our harbor? Because of the efficiency of the State and local quarantine.

Not a case of cholera came from Bremen, because the medical inspection there under the direction of the United States consul was competent and alert. But at Hamburg the steamship companies were practically their own medical inspectors, and from that port came nearly all our cholera.

It is absurd to think that any quarantine, State or national, at the port of New York can forever cope successfully with cholera if steamship companies are allowed to deposit shipload after shipload of infected immigrants and baggage at our quarantine station without restriction exercised at the place of departure. The place to detain cholera is on the other side of the ocean, not in New York bay. The quarantine facilities here can easily be made amply sufficient to handle all cases of disease which may have broken out aboard ship after departure from the place of sailing.

A rigid system of inspection at foreign ports, under the direction of the consular service, would form the best kind of national quarantine. As for the rest, it can safely be left to State jurisdiction and control. A complete federal quarantine within the legitimate field of federal power will fitly supplement a complete State quarantine within the natural field of State power, and both supplementing each other in this way will afford the securest protection to the public health.

CARELESS ENGROSSING AND CONSTRUCTION OF LEGISLATIVE BILLS.

I particularly urge upon the attention of the Legislature the necessity of an improvement in the construction and engrossing of bills. No less than seventy-two bills which reached the Executive Chamber last year during the legislative session were so faultily drafted that they had to be recalled for the correction of merely verbal or rhetorical errors, and similar defects prevented many measures from receiving Executive approval during the thirty days after the Legislature had adjourned. These do not include a vastly greater number which contained engrossing errors — errors in transcribing from the bills actually passed — and which were sent back to the engrossing rooms for correction.

It is no business of the Governor to extend his scrutiny beyond the engrossed bill, but had he followed this strict interpretation of his duty during the last session, the printed Laws of 1892 would be a standing contradiction of the journals of the two houses, and would have overwhelmed the law-making body with the censure and ridicule of the people of the State.

The interest of clean and clear legislation demands a radical reform in this direction. Either the committees of the Legislature should exercise greater care in the construction of bills and more competent men should be placed in the engrossing rooms, or legislative counsel should be provided for consultation in the drafting of bills and the antiquated method of engrossing bills be done away with. Either or both changes would make the Executive Chamber less of a factory for renovating and reconstructing defective bills.[26]

ROSWELL P. FLOWER.

SPECIAL MESSAGES.

January 12. To the Assembly: Transmitting the annual report of the Board of Commissioners of Pilots.

January 18. To the Assembly: Transmitting the annual report of the Adjutant-General.

January 19. To the Assembly: Transmitting the annual report of the receipts and expenditures of the Cooper Union.

January 26. To the Assembly: Transmitting the report of the Board of General Managers of the Exhibit of the State of New York at the World's Columbian Exposition, dated December 31, 1892. Assembly Document No. 46.

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[26] Chapter 24, passed February 6, added to the legislative law section 23, which made it "the duty of the commissioners of statutory revision, on request of either House of the Legislature, or of any committee, member or officer thereof, to draft or revise bills, to render opinions as to the constitutionality, consistency or other legal effect of proposed legislation, and to report by bill such measures as they deem expedient."

The Statutory Revision Commission ceased to exist on the last day of December, 1900. At the next session, 1901, the Legislature, by chapter 88, amended the foregoing section of the Legislative Law, by authorizing the temporary President of the Senate, and the Speaker of the Assembly, to appoint not exceeding three persons, "whose duty it shall be during the session of the Legislature, on request of either House of the Legislature, or of any committee, member or officer thereof, to draft bills, examine and revise proposed bills, and advise as to the consistency or other effect of proposed legislation."

January 26. To the Assembly: Transmitting a communication from Major D. P. Heap, Engineer 3d L. H. District, requesting the passage of an act ceding to the United States jurisdiction over certain land under water at Old Orchard Shoal, in New York Bay.[27]

February 1. To the Assembly: Transmitting resolutions adopted by the Legislature of Minnesota in January, 1893, relative to Pacific railroad bonds. For text of preambles and resolutions, see Assembly Journal, volume 1, page 226.

February 6. To the Senate:

Veto of a bill entitled "An act to legalize, to ratify and confirm certain acts of the county of Kings and its board of supervisors and the public officers of said county, and certain acts of the city of Brooklyn and its board of aldermen and the public officers of the said city, in the joint celebration of the completion of the soldiers and sailors' memorial arch and the discovery of America, held in the city of Brooklyn and county of Kings in October, 1892,"

"1. The bill appears to be in violation of article 3, section 16 of the Constitution, which provides: 'No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.' This measure legalizes and ratifies certain acts of the board of aldermen and public officers of the city of Brooklyn, and also certain other acts of the board of supervisors of the county of Kings — thus embracing two subjects within the same local bill.

2. The bill is of questionable propriety, and, in my judgment, its enactment would be averse to the best public interests of the city of Brooklyn, the county of Kings, or, indeed, of the entire State.

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[27] Chapter 98, passed March 8, ceded to the United States jurisdiction over certain land under water at Old Orchard Shoal in New York bay for "lights or other aids to navigation."

The Legislature is often called upon to legalize and ratify acts of officials done in some critical emergency without precise authority of law, or to correct certain technical failures to comply with the full provisions of law, either through inadvertence or ignorance. Bills of this kind are made necessary at nearly every legislative session and in most cases it is quite proper that they should be enacted.

But the case in question presents a particularly flagrant violation of law committed under circumstances which scarcely justify wholesale ratification by the Legislature.

So far as the actions of the board of aldermen and public officers of the city of Brooklyn are concerned, these circumstances were about as follows:

The common council, recognizing its inability to incur bills against the city without warrant of law and desiring to make provision for the celebration of the four hundredth anniversary of the discovery of America, passed on March twenty-first last, the following resolution:

'Resolved, That the corporation counsel be and he hereby is authorized and directed to prepare a bill to be presented to the Legislature for its passage, authorizing the comptroller of this city to transfer the sum of thirty thousand dollars from the revenue fund to the contingent fund of the board of aldermen, the said sum, or so much thereof as may be necessary, to be used in payment of expenses to be incurred by said city for the celebration of the four hundredth anniversary of the discovery of America.'

No such legislation was ever obtained, but the committee of aldermen, appointed to arrange for the celebration and directed to confer with the mayor, went ahead and made the plans and incurred the expenditures without authority of law and apparently with the knowledge that they had no authority of law for their actions.

But this was not all. The charter of Brooklyn prescribes that 'all contracts and agreements by which the city shall be held liable to pay money shall be under the authority of the common council' (except in certain specified instances) and that no contract for work or material exceeding $250 shall be given out except to the lowest bidder upon public advertisement for bids. Notwithstanding this provision, bills exceeding $250 and aggregating altogether about $50,000 were incurred by this committee of the board of aldermen, without contract and without bids being invited by public advertisement.

Moreover, the charter again provides that 'no bill or claim shall be audited unless the same be made out in items.' As a matter of fact most of the bills were not made out in items but were stated in most general terms and were thus received, audited and paid by auditor, mayor and comptroller. They have since been shown to be very extortionate, if not fraudulent — a fact which would have been more readily revealed had the separate items been stated.

Again, the charter prohibits the mayor from signing any warrant or other obligation unless a proper voucher therefor shall have been first 'examined and certified to by him.' He naturally could not certify properly to unitemized bills, yet the bills in question received his certification in their illegal form.

Thus the most fundamental safeguards for economy and honesty in the administration of the government of Brooklyn were unjustifiably broken down and ignored by aldermen and public officers of the city. The restrictions imposed by the charter on the expenditure of public money were too familiar features of municipal government to permit a justification of these illegal acts upon the ground of ignorance. Such ignorance would be inexcusable, and such lax administration of public affairs and such careless custody of public money ought not to be encouraged by hasty legalizing acts of the Legislature.

The circumstances under which the county bills were incurred by the board of supervisors were scarcely more favorable for a legislative justification of the illegal acts than those under which the city bills were incurred.

I not only doubt the propriety, as it affects the public interests, of legalizing and confirming such careless and perhaps criminal acts of public officers, but I question whether the bill would not, if enacted, prevent any successful criminal prosecution against officials who may have been guilty of penal offences in their relations to this local scandal. I know that the bill does not purport to exonerate any officials from criminal prosecution, and has a provision in it to guard against such a result; but this provision is artfully worded and I doubt seriously whether it would be effective after 'the procedure of the payment of all expenses' has been ratified and confirmed by legislation. Legislation should not be doubtful in its terms at any time, but particularly when such grave interests are at stake. If local officials are guilty of misconduct the law should take its course and no legislative aid should be invoked to save them.

To legalize and confirm such flagrant misdeeds of local officers would be to encourage municipal officers everywhere in maladministration. To fix on them the civil and criminal liability of their illegal acts will be to inculcate a wholesome lesson through all municipal governments."

The bill was not passed over the veto.

February 16 and 17. To the Assembly and Senate respectively:

"EXECUTIVE CHAMBER,
ALBANY, *February* 16, 1892.

"The Dairy Commissioner has called my attention to the discovery made by his subordinate officers that about two tons of 'butterine,'—so-called and labeled, but pronounced by the Chemist of the Dairy Commission to be 'oleomargarine,'—have been purchased by direction of the superintendent of one of the State hospitals for the use of the inmates of that institution in the place of genuine butter. I have referred the matter to the State Commissioners in Lunacy, for them to take such action in reference to this particular case as may seem to them proper, but the discovery reveals a serious omission in the existing law against the sale and manufacture of adulterated dairy products, namely, that at present there is no prohibition against the use of such products in the State institutions.

It would certainly be a paradoxical condition of affairs that when the State is spending thousands of dollars every year for the suppression of traffic in oleomargarine, the public institutions of the State should be permitted to encourage that illegal traffic. So long as it is the declared policy of the State to protect the public from imposition in the sale of dairy products, thereby protecting as well our 250,000 farmers in an honest and legitimate industry, no opportunity should be allowed those in charge of public institutions to frustrate the carrying out of that policy. That any public officers should thus defy the declared policy of the State is strange and indefensible, even though done in ignorance as was probably the case in this instance, but proper legislative precaution would suggest the absolute prohibition hereafter of the purchase or use of adulterated or imitation dairy products by any State institution.

I respectfully recommend to your consideration the enactment of such an amendment to the existing laws as will accomplish this object.[28]

ROSWELL P. FLOWER."

February 21. To the Legislature: Transmitting the annual report of the Commissioners of Emigration.

February 21. To the Assembly. Transmitting the fourth annual report of the Cornell University Experiment Station.

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[28] Chapter 364, passed April 13, prohibited the use of any public funds for the purchase of butterine, oleomargarine or adulterated, or imitation dairy products in certain institutions.

March 8. The Speaker handed down a communication received by the Governor from the New York State branch of the American Federation of Labor, including resolutions approving the Governor's recommendations in his annual message relative to coal combinations, and urging legislative action to prevent " the coal combinations from exacting the undue prices that are continuously demanded, as we believe in such a commodity of absolute necessity a rate should be established, and the coal combination placed under strict penalties for violations of the same." [See note 14.]

March 9. To the Assembly: Transmitting the annual report of the State Commissioners of Health.

March 13. To the Assembly: Transmitting the annual report of the New York State Civil Service Commission.

March 20. To the Assembly: Transmitting the annual report of the Commissioners of Quarantine, and also the report of the special commission created under chapter 270 of the Laws of 1888.

March 22. To the Assembly:

Veto of a bill entitled "An act to authorize the construction of a bridge over the Oswego canal, at Bridge street, in the village of Phoenix, New York."

" I am informed by the Superintendent of Public Works, who has caused an examination to be made, that the present bridge can be placed in good condition at an expense of $100, and that in his judgment there is no necessity for the construction of a new bridge. The appropriation of $5,000 is therefore disapproved."

The bill was not passed over the veto.

March 23. To the Assembly:

Veto of a bill entitled "An act to provide for an evening high school in the city of New York."

" This bill has received the unanimous opposition of the board of education of New York city. The board already has power to increase the number of evening high schools, whenever in its judgment additional educational facilities of this kind are needed. Already four of these institutions have been thus established, and, in the opinion of the board of education, there is at present ample accommodation for the class of students for whom these schools are intended. The enactment of this measure would be an unwise interference with the functions of the local board."

The bill was not passed over the veto.

March 28. To the Senate:

Veto of a bill entitled "An act to amend an act, entitled 'An act to incorporate the Onondaga historical association, passed April twenty-ninth, eighteen hundred and sixty-three;'" and a bill entitled "An act to amend chapter three hundred and forty-six of the laws of eighteen hundred and sixty-six, entitled 'An act to incorporate the Southside Sportsmen's Club of Long Island.'"

"These bills are unnecessary. See section 12 of the General Corporation Law, and Laws of 1889, chapter 191, as amended by chapter 553 of the Laws of 1890."

The bills were not passed over the veto.

March 28. To the Assembly:

Veto of a bill entitled "An act to repeal section one hundred and sixty-nine of chapter one hundred and forty-three of the Laws of eighteen hundred and sixty-one, entitled 'An act to amend and consolidate the several acts in relation to the charter of the city of Rochester.'"

"The section of the charter of Rochester which this bill repeals, prohibits the common council from laying out any street so as to run across or over the site of any building of the value of fifty thousand dollars, without having obtained the consent of the owner of such building in writing, or, without having purchased the building. This provision of the charter seems to me to be wholesome and proper, and I am informed that there is no general sentiment among the people of the city in favor of its repeal. Under these circumstances, and in view of the fact that the bill appears to be urged in order to meet a particular case — namely, the opening of a street through land now occupied by a public library — I feel compelled to heed the protest which has been filed against my approval of the measure, and to return the bill to the Assembly."

The bill was not passed over the veto.

March 30. To the Assembly: Transmitting the annual report of pardons, reprieves and commutations.

April 3. To the Assembly:

Veto of a bill entitled "An act to amend the Executive Law."

"The change in the law sought to be accomplished by this bill has already been made by chapter 248 of the Laws of 1893. The proposed legislation is therefore unnecessary."

The bill was not passed over the veto.

April 4. To the Assembly: Transmitting the annual financial report of the Sailors' Snug Harbor.

April 10. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *April* 10, 1893.

"I desire to call the attention of the Legislature to a matter of vital concern to the preservation of the State's forest preserve.

There are now on file in the Comptroller's office over 300 applications for the cancellation of tax sales of Adirondack lands, covering about 150,000 acres of State lands in that wilderness. Unless chapter 217 of the Laws of 1891, under which these applications are filed, is speedily and radically amended, the State is likely to be deprived of this great area of forest land and one-third of its present holdings in the Adirondack Park will be turned over to the devastation of lumbermen.

That would be a calamity to be regretted by every friend of forest preservation, and to permit it to happen without opposition or protest would justly subject the Legislature to severe criticism.

Let me explain the exact situation which confronts the State to-day. By innumerable tax sales in years gone by, the State has come into possession of about 900,000 acres of forest lands. Prior to the passage of chapter 217 of the Laws of 1891 the only person who could compel the Comptroller to cancel a tax sale was the purchaser at such sale. The proceedings for the cancellation of tax sales were held to be for the purpose of affording relief to persons who purchased at such sales and paid their money to the State in good faith and afterwards discovered that, through some defect in the proceedings by which the tax was levied, the sale was ineffectual to pass title to the purchaser. Upon the cancellation of such a sale the purchase money is refunded to the purchaser.

In a proper case the Comptroller has power to cancel such sales where he discovers that the proceedings are so irregular as to pass no title to the purchaser, although the application is not made by the purchaser, but the only person who could *compel* the Comptroller to act prior to the passage of chapter 217 of the Laws of 1891 was the purchaser.

By this statute, however, the following amendment to the existing laws was inserted:

'All applications heretofore or hereafter made to the Comptroller for the cancellation of any tax sale *by any person interested in the event thereof, shall* be heard and determined by him,' etc.

The general term of the third department has just decided that this amendment makes a radical change in the law, the effect of which is to compel the Comptroller to take and pass upon all pending applications for cancellations if made by any person interested in the lands to be affected by the application.[b] It was this amendment of 1891, enacted apparently without a clear understanding by the Legislature of the scope of its provisions, which has brought this flood of applications for cancellations to the Comptroller's office, and which now threatens the State with a loss of nearly every acre of forest land acquired by tax sale.

The amendment was not in the interest of wronged or innocent owners — they had then and have now their means of redress — but in the interest of land and timber speculators, who by acquiring some remote interest in the lands sold and by proving some technical defect or oversight in the original assessment of taxes or in the tax sale might be able to cancel the sale and for a mere song get possession of lands long held by the State without dispute over title.

There is now pending in the Legislature a bill to correct this evil by amending the present law so as to restore the conditions of cancellation existing prior to 1891. There remain but two weeks of the legislative session and this measure is still unacted upon. It naturally is opposed by selfish interests which seek to profit by the present law. But the interests of a half dozen individuals — for this small number is said to include all the persons who are financially concerned in the 300 applications for cancellations now on file — should not control the action of the Legislature against the broader interests of six millions of people. I sincerely trust that no adverse influences will defeat the passage of this bill at the present session, but that the Legislature will supplement the great public service which it has just rendered in the enactment of the Forestry Law by interposing its fiat against the partial destruction of the Adirondack Park now threatened.[29]

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[b] See People ex rel. Hamilton Park Co. v. Wemple (183), 67 Hun, 495 reversed (1893), 139 N. Y. 240.

ROSWELL P. FLOWER."

April 13. To the Senate:

Veto of a bill entitled "An act authorizing the commissioners of fisheries to establish a fish hatchery on Watkins creek, in the county of Oneida, and making an appropriation therefor."

" The expenditure is not deemed advisable at the present time. Already one additional fish hatchery has been provided for by the Legislature during the present session and a bill, which I shall approve, is now pending before me for the establishment of still another. These ought to be sufficient for the purposes of fish propagation for the present and I do not think the interests of economy justify this additional appropriation this year."

The bill was not passed over the veto.

April 17. To the Senate:

Veto of a bill entitled "An act to establish the memorial hall of the State of New York at White Plains."

" The design of this bill is to secure the erection of a memorial hall by the State, at a cost of $25,000, on the site of the old court-house at White Plains, in which the Declaration of Independence was formerly ratified and approved by the Provincial Congress of the Colony of New York.

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[29] Chapter 398, passed April 15, amending the act of 1885, chapter 448, omitted the clause objected to by the Governor, and contained in the amendment of 1891, chapter 217, thus abrogating the provision authorizing application for cancellation of a tax sale to be made by any person interested, instead of by the purchaser only; but the new act did not affect pending actions or proceedings.

I am in thorough sympathy with those patriotic impulses which would perpetuate in suitable manner the memory of historic places and events. Such manifestations of praiseworthy sentiment serve to stimulate patriotism. But it seems to me that movements of this kind should originate and be carried out, as far as possible, by the people of the locality in which the memorial is to be placed. There is, I am sure, sufficient pride and public spirit in Westchester county to secure the object sought to be accomplished by this bill without recourse to State aid. There are a dozen other historic places which have an equal claim for patriotic recognition by the State, and if one is honored by State appropriation another must be. The result is likely to be much more satisfactory when patriotic purposes of this kind are accomplished spontaneously and voluntarily by the people of the vicinage."

The bill was not passed over the veto.

April 17. To the Assembly:

Veto of a bill entitled "An act to provide for the construction of a statue of Hendrick Hudson on Polopels island in the Hudson river, and appropriating money therefor."

This bill was vetoed for reasons " similar to those contained in my message to the Senate of this date, disapproving Senate Bill No. 337, entitled 'An act to establish the Memorial Hall of the State of New York, at White Plains.' "

The bill was not passed over the veto.

April 19. To the Assembly: Transmitting the report of the Health Officer of the Port of New York.

April 20. The Legislature adjourned without day.

MEMORANDUMS FILED WITH BILLS BEFORE THE ADJOURNMENT OF THE LEGISLATURE.

January 30.

Memorandum filed with Senate bill, chap. 15, making an appropriation for continuing work on the Capitol. Approved.

"This bill appropriates $700,000 to be expended toward the completion of the Capitol. In approving a larger appropriation last year I quoted the estimate of the Commissioner of the Capitol that the total amount needed for the completion of the structure was then $2,251,025.32, and that by the expenditure of $800,000 that year, $700,000 this year and the remainder $750,000 next year, the Capitol would be finally completed. I stated then that in my judgment a proper regard for economy requires the speedy completion of the building, and in line with that policy I cheerfully approve this additional appropriation. The experience of the year just ended shows that a large appropriation can be expended to better advantage than a succession of small appropriations, and the advance in the work made under last year's appropriation gives assurance that the estimate of the Commissioner of the Capitol will cover the total cost of completing the structure."

February 11.

Memorandum filed with Assembly bill, chap. 35, relating to supervisors in Kings county. Approved.

"The sole object of this bill is to provide for filling vacancies in the offices of the supervisors of Kings county who are elected from the city of Brooklyn. Heretofore the only method of filling such a vacancy for the remainder of an unexpired term has been by special election. This bill proposes that the common council of the city of Brooklyn shall fill such vacancies by appointment for the remainder of the unexpired term. As the remainder of an unexpired term is but a short period at best, and, under the new election laws, the expense of the special election is very burdensome, the change proposed by this bill from special election to appointment by the common council is certainly in the interests of economy, and ought to result in as judicious a selection as the existing method. The only serious objection made to the bill has been, not upon its merits, but upon constitutional grounds.

Article 10, section 5 of the Constitution authorizes the Legislature to provide for filling vacancies in elective offices by appointment. Other provisions of the Constitution provide that supervisors shall be originally elected and that the Legislature shall not pass a private or local bill providing for their election.[c] It is obvious from these references that this bill is entirely consistent with the constitutional system, that supervisors shall be originally elected in pursuance of general laws, but that the Legislature may provide either by general or special law for filling vacancies in such offices either by appointment or by special election."

This act was sustained in People ex rel. Kehoe v. Fitchie (1894), 76 Hun, 80.

February 21.

Memorandum filed with Assembly bill, chap. 50, to increase the salary of the surrogate of Rensselaer county. Approved.

"Essentially the same bill as this came before me last year and was not approved because there was not before me at that time any satisfactory evidence that the people of the county of Rensselaer desired the compensation of their surrogate increased. At that time I expressed my convictions with reference to legislative measures increasing the salaries of local officers as follows:* 'I believe that as a rule all salaries and the compensation of local officers should be regulated by the localities themselves. The people who pay the taxes are the best judges of what that compensation should be. So far as is possible general laws should be passed relegating this jurisdiction to the proper local authorities.' I pointed out, however, that in the case of county judges and surrogates this reform could only be accomplished by constitutional amendment, but I refrained from approving the bill until there should be a definite expression of opinion from the board of supervisors of Rensselaer county in favor of the proposed increase in the surrogate's salary. The sentiment of the board of supervisors is now well reflected in the petition which has been filed with me signed by twenty-two members of the board requesting my approval to this measure. In addition to this there has also been filed with me a long petition signed by leading members of the Rensselaer county bar making a similar request. The sentiment of the locality having been so clearly manifested, therefore I have no hesitation in approving the bill."

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[c] Const. 1846, art. 3, § 18, added 1874; § 22 am. 1874.

*Ante, p. 108.

March 23.

Memorandum filed with Assembly bill, chap. 189, for sanitary protection of the water supply of New York city. Approved.

"There is practically no objection to the enactment of this bill, but a statement has been filed with me by a committee representing the New York Academy of Medicine, which criticizes the measure in respect to its alleged failure to provide for the immediate sanitary protection of the water supply of the city. It is argued by this committee, with considerable force, that the proposed process of securing protection by condemnation of lands in the Croton water-shed, while good so far as it goes, is too slow a method to prevent danger of cholera infection during the coming summer, and it is urged that either a commission or the superintendent of public works should be invested with broad enough powers to permit the summary removal or abatement of whatever causes of infection may exist. The city authorities, on the other hand, contend that such powers are already conferred on the superintendent of public works by existing provisions of the consolidation act, and are properly supplemented by this pending measure.

It will be conceded by all citizens that the amplest measures of relief should be provided to guard the water supply of New York from pollution. In the event of the outbreak of cholera in the vicinity of New York the greatest danger of a spread of the disease will be in the contamination of the water, for cholera germs find a favorable opportunity for development in that medium. No sanitary precautions within the city could stop the epidemic if the water supply once became infected with the germs of this disease. If there is any doubt, therefore, as to the sufficiency of powers vested by this act or by existing laws in the local authorities for the sanitary protection of the watershed, the Legislature should not hesitate to remove that doubt by the enactment of a supplementary measure suitably comprehensive in its terms. No important difference of legal opinion should be allowed to exist in the presence of so great a possible danger. It is better always to legislate on the side of safety, and the preservation of the public health is too serious a matter to risk by allowing any ambiguity to remain in the law."

This act was sustained in Kelley v. New York (1895), 89 Hun, 246.

March 25.

Memorandum filed with Assembly bill, chap. 214, providing for the care of the indigent insane by the State. Approved. See note 17.

" This bill marks an epoch in an important matter of State policy. It is the culmination of the agitation which has gone on in this State during many years for the State care of the indigent insane. The so-called State Care Act of 1890, prescribed that when accommodations in State hospitals should be provided for all the insane poor, the cost of clothing, maintenance, care, treatment, salaries of officers and employees, and transportation of the insane should cease to be a charge upon the counties of the State and should become a direct charge upon its revenues from funds to be specifically raised for that purpose. In December last the certificate required by law was made that accommodations would be in readiness by the first of October, 1893, and this bill provides the necessary tax and appropriation for carrying the State Care Act into effect.

Heretofore each county has boarded its poor insane in the State hospitals at rates which, for many years, were arbitrarily fixed by each local board of managers, but which subsequently were made uniform throughout the State by the Commission in Lunacy. The amounts of these board bills were required to be raised each year by the board of supervisors of each county, and the money was turned into the hospital treasury. The counties will now be relieved from local taxation for this purpose. The tax of one-third of a mill, imposed by this bill, will yield in round numbers $1,350,000, which together with the sum raised from the patients, whose support is paid by relatives and friends, and the sum received from miscellaneous sources, will amply provide for the expenses of the State hospitals for the fiscal year beginning with the first day of October, 1893. So long as New York and Kings counties refuse to avail themselves of the privileges of State care the saving to the remaining counties will average more than fifty per cent.

In order that the people may see for themselves just how this redistribution of taxation affects the various counties, I make no excuse for inserting here a table showing the relative cost to each county under the old county care system and under the new State care system. This table is as follows:

COUNTIES.	Cost by county tax.	Cost by State tax.	Gain.	Loss.
Albany	$84,500	$30,076	$54,424	....
Allegany	12,844	4,745	8,099	....
Broome	21,111	9,192	11,919	....
Cattaraugus	13,013	5,217	7,796	....
Cayuga	28,181	10,066	16,115	....
Chautauqua	19,128	9,137	9,991	....
Chemung	20,773	7,040	13,733	....
Chenango	15,027	5,458	9,569	....
Clinton	13,168	2,603	10,565	....
Columbia	20,266	9,193	11,073	....
Cortland	8,760	3,348	5,412	....
Delaware	16,210	4,395	11,815	....
Dutchess	42,898	14,735	28,163	....
Erie	109,977	68,103	41,874	....
Essex	7,943	4,530	3,413	....
Franklin	8,943	2,696	6,247	....
Fulton	14,168	3,658	10,510	....
Genesee	6,253	6,999	....	$746
Greene	12,464	4,281	8,183	....
Hamilton	1,014	435	579	....
Herkimer	11,295	6,844	4,451	....
Jefferson	16,534	8,716	7,818	....
Kings	....	154,046	....	154,046
Lewis	11,478	2,650	8,828	....
Livingston	13,999	8,785	5,214	....
Madison	15,858	6,468	9,390	....
Monroe	80,107	40,351	39,756	....
Montgomery	19,083	8,249	10,834	....
New York	....	596,288	....	596,288
Niagara	23,660	9,628	14,032	....
Oneida	76,050	17,539	58,511	....
Onondaga	49,743	24,305	25,438	....
Ontario	19,942	9,696	10,246	....
Orange	34,462	14,624	19,838	....
Orleans	5,408	4,944	464	....
Oswego	25,012	7,907	17,105	....
Otsego	14,520	6,968	7,552	....
Putnam	4,887	2,325	2,562	....
Queens	50,644	20,461	30,183	....
Rensselaer	64,347	21,073	43,274	....
Richmond	15,589	4,593	10,996	....
Rockland	10,802	4,433	6,369	....
St. Lawrence	19,252	9,052	10,200	....
Saratoga	21,449	7,842	13,607	....
Schenectady	10,802	4,504	6,298	....
Schoharie	9,802	3,458	6,344	....
Schuyler	8,943	2,219	6,724	....
Seneca	15,351	4,976	10,375	....
Steuben	27,519	8,795	18,724	....
Suffolk	23,970	6,570	17,400	....
Sullivan	11,309	1,750	9,559	....
Tioga	11,309	3,969	7,340	....
Tompkins	12,830	4,241	8,589	....
Ulster	37,152	8,516	28,636	....
Warren	8,605	2,514	6,091	....
Washington	11,478	6,218	5,260	....
Wayne	14,337	8,073	6,264	....
Westchester	59,770	31,953	27,817	....
Wyoming	3,887	5,240	....	1,353
Yates	9,957	3,867	6,090	....

As I said in my message to the Legislature at the beginning of the present session, 'the great danger of this assumption of responsibility and expense by the State is maladministration. Corruption, extravagance and the improper injection of politics into hospital management will be constant foes, which, if not combated and overcome, will bring reproach upon the State.' With a view to establishing abundant safeguards around the expenditure of this vast sum of money I recommended legislative provision compelling the purchase of all supplies on advance monthly estimates which should have the scrutiny of the State Commission in Lunacy. This suggestion, I am pleased to note, the Legislature has incorporated in the bill, besides imposing additional safeguards to promote economy of administration. The people are to be congratulated that the assumption of this great responsibility by the State has thus been placed upon a business-like and economical basis. The revelations of the recent investigation into the affairs of the Hudson River State Hospital at Poughkeepsie have demonstrated, if demonstration were needed, the necessity of maintaining the strictest system of financial administration. Under the provisions of this bill there can exist no purchases of supplies at a higher cost than the market values, and competition will prevail against favoritism and incompetent financial management. The superintendents of the various hospitals will meet each month with the Commission in Lunacy for an exchange of views and with the purpose of promoting uniformity in the purchase of supplies. These safeguards, inciting and insuring economical methods, are vital to the permanence of the system of State care of the insane."

THIRTY-DAY BILLS.

April 25.

Veto of Assembly bill entitled "An act to amend chapter three hundred and fifty-four of the Laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the State of New York.'"

"This bill threatens the integrity of the civil service law. If enacted it would exempt physicians who are applicants for positions in the civil service of cities, villages, towns and counties from the regulations prescribed for their appointment and tenure of office. It would be an entering wedge for the breaking down of the entire system. In no department of municipal and State government have the beneficial results of the civil service law been so marked as in those requiring expert medical knowledge, demonstrated by competitive examinations. In my judgment it would be a great injury to the efficiency of administration, after such a successful experience, to exempt physicians from the operations of the act. The principle of appointment by competitive examination is especially adapted to such positions as they occupy, and if they are to be exempted, the law-making power cannot consistently refuse demands for further exemptions. The next logical step to such legislation as is proposed by this bill would be its extension to include, among the exempted, physicians in the State service as well as those in municipal service. That would make positions in our State hospitals dependent solely on political influence, thereby demoralizing the service and damaging its efficiency.

I am in favor of maintaining an honest and practical administration of the civil service law, and for this reason I cannot give my approval to a measure which seems to me to attack severely the principle of civil service reform."

April 29.

Veto of Senate bill entitled "An act to legalize and confirm the audits and allowances of certain accounts by the boards of supervisors of Oneida county."

"I am surprised to find that this bill is again before me. The same measure was recalled from the Executive during the closing days of the session in order to escape a veto. I had communicated to the introducer of the bill my determination not to allow it to become a law, and at his personal request I consented to a recall to save him any possible embarrassment from a veto message. I am at a loss therefore to understand why the bill has been again sent to the Executive, unless it was with the hope of inducing me to reconsider my determination.

This I have no idea of doing. The purpose of the bill is to legalize certain extortionate and illegal charges allowed by the board of supervisors to certain officers of the county of Oneida, and the measure is the last resort of the accused officers to prevent a judgment of the courts against them. The excessive charges in dispute are said to amount to about forty-five thousand dollars. Suits are now pending in behalf of the people for the recovery of these excessive and illegal charges. I question the propriety of the Legislature interfering in this litigation. Thus far the courts have sustained the cause of the people. The money in dispute, if recovered, belongs to the people of Oneida county, and if they are desirous of discontinuing the suits, proper expression of that desire, through the board of supervisors, would be the natural course of action for accomplishing this result. But it seems to me unjust to the tax-payers of Oneida county that a legislative act should intervene between them and the accused county officers from whom excessive charges are sought to be recovered."

May 5.

Veto of Assembly bill entitled "An act to abolish the office of railroad commissioner in the town of Berlin, in the county of Rensselaer."

"Section thirteen of the General Municipal Law provides for accomplishing the object sought by this bill. The measure is, therefore, unnecessary."

May 5.

Veto of Assembly bill entitled "An act to establish an agricultural experiment station on Long Island."

"I do not think the establishment of an agricultural experiment station on Long Island is advisable at the present time. Moreover, if such an institution be established, it should be under the direction and control of the Commissioner of Agriculture. This the bill fails to provide."

May 5.

Veto of Assembly bill entitled "An act releasing from taxation certain real estate of the Ladies' Deborah Nursery and Child's Protectory."

"This is a special bill exempting the real estate of a charitable institution from taxation. I have refused to approve special bills of this character, and a general law sufficiently liberal in its scope has been enacted to meet this objection. This general law probably embraces the institution referred to in this bill."[30]

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[30] Chapter 498, approved April 29, 1893, exempted from taxation the real property of religious, charitable and educational corporations and associations.

This act was sustained in People ex rel. American Bible Soc. v. New York (1894), 142 N. Y. 348.

Art. 3, § 18 of the Constitution was amended in 1901, by including a provision prohibiting a private or local law granting to any person, association, firm or corporation an exemption from taxation on real or personal property.

May 5.

Veto of Assembly bill entitled "An act to incorporate the Bayard Homeopathic College, Hospital and Dispensary." [See note 30.]

"No special act is necessary for the incorporation of this institution. Moreover, it contains special and somewhat sweeping provisions relative to the exemption of its property, both real and personal, from taxation. I see no reason why such an institution should not be placed on an equal footing in this respect with all similar institutions and be subject to the provisions of the general statute governing exemptions from taxation."

May 5.

Veto of Assembly bill entitled "An act to amend the Game Law."

"I fear that this would be an unwise interference with the rights of owners of private property. The mere fact that private ponds or streams have been stocked from the fish hatcheries of the State at public expense does not justify the State in depriving the owners from control over their property in the matter of trespassing for fishing or shooting purposes."

May 5.

Veto of Assembly bill entitled "An act to amend the Game Law."

"By reason of previous legislation affecting this section of the Game Law, the enactment of this bill might lead to embarrassment and confusion. Its purposes can be effected by the boards of supervisors of the counties named should its provisions be deemed important in those localities."

May 5.

Veto of Senate bill entitled "An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York."

"This bill is objectionable in form inasmuch as it fails to amend the Game Code. Independent acts relative to the protection of fish and game tend to confusion and destroy the harmony and consistency of the general law on that subject. Moreover, the act is unnecessary. It imposes additional restrictions which may already be imposed by the board of supervisors."

May 5.

Veto of Senate bill entitled "An act to regulate the sanitary disinfection of public ferry houses, steamboat and railroad stations, cars and steam or sailing vessels, and to appoint a state sanitary commissioner to enforce the same."

"The enactment of this measure would mean, practically, the creation of a second State Board of Health. The objects which it seeks are virtually all provided for by existing law, enforced under the direction of the present State Board of Health. The creation of the office of a sanitary inspector, with power to appoint an unlimited number of deputies, would duplicate existing machinery at unnecessary expense and with doubtful benefit. Such a law as this, in addition to those already on the statute books, would lead to confusion and possible injury. Such additional precautions for the preservation of public health as the possibility of an epidemic might suggest are incorporated in the enactments of the public health law now pending before me."

May 5.

Veto of Senate bill entitled "An act to amend chapter four hundred and fifty-three of the Laws of eighteen hundred and eighty-seven, entitled 'An act to incorporate the Rochester Homeopathic Hospital,' passed May twenty-fifth, eighteen hundred and eighty-seven, and to exempt said hospital from taxation."

"Since the introduction and passage of this bill its object has already been provided for by the general law relative to exemptions from taxation of certain property of charitable and other institutions including hospitals." [See note 30.]

May 5.

Veto of Senate bill entitled "An act to provide for the acquisition of sites for buildings for the use of the fire department of the city of New York."

"This bill in its present shape is objectionable to the local authorities and they have requested me to withhold my approval from it."

May 5.

Veto of Senate bill entitled "An act to amend section seven hundred and twelve of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relating to the dock department."

"The principal provisions of this bill are incorporated in chapter 397 of the Laws of 1893. There is no necessity, therefore, for this measure and its enactment would repeal chapter 397, which in its terms is more acceptable to the local authorities than this pending bill."

May 5.

Veto of Assembly bill entitled "An act to authorize the board of revision and correction of assessment-lists of the city of New York to reconsider and examine into an assessment for alteration and improvement to sewer in Twenty-second street, between First and Third avenues, in the city of New York."

" The local authorities have requested me to withhold my approval from this measure on the ground that it is adverse to the best public interests, and inasmuch as the proposed legislation is entirely local in its character I comply with their request."

May 5.

Veto of Assembly bill entitled "An act to provide for the acquisition of lands for public use between the Tenth avenue and other streets and the Harlem river, in the city of New York, adjoining and in addition to the lands authorized to be acquired by chapter two hundred and forty-nine of the Laws of eighteen hundred and ninety, and chapter one hundred and two of the Laws of eighteen hundred and ninety-three."

" This measure seems to have been put through the Legislature in the closing days of the session without the knowledge or approval of the local authorities. If enacted it would probably involve the city in an expenditure of millions of dollars without compensating advantages, or without the consent of the people's local officers. The mandatory provisions of the bill are reprehensible. The measure is strongly opposed by the local authorities, and believing it to be subject to criticism both in the manner of its passage and in the nature of its provisions, I cheerfully comply with their request to withhold my approval."

May 6.

Veto of a Senate bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Henry L. Schwartz, assignee of Louis M. Brock and Magnus Wiener, comprising the firm of Brock and Wiener, for work and labor done and performed, and materials and goods furnished by said Louis M. Brock and Magnus Wiener in making, altering and repairing uniforms for the sixty-fifth and seventy-fourth regiments of the National Guard of the State of New York, and to award compensation therefor."

"This is an old claim. It was never a legitimate claim against the State. The indebtedness was incurred by officers, most of whom have been for a long time out of the service. It was not incurred under or pursuant to any law of the State, and there was no misapprehension about the law, at least so far as the officers were concerned. It was a personal matter between the dealers and the officers giving the order. I do not think the claim should be sent to the Board of Claims."

May 6.

Veto of Senate bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Ross & Sanford against the State of New York for work, labor and services done and performed in the years 1887 and 1888, in and about the construction of the Shinnecock and Peconic bays canal, and for the amount of money deposited by Ross & Sanford as security for the performance of said work, and to make an award thereon."

"If this claim had been a just one I see no reason why it should not have been presented to the Board of Claims within the statutory time. By deferring presentation the claimants have placed the State at a disadvantage, for the reason that the State officers then interested in the contract upon which the claim is based are not now occupying the official positions which they held at that time, and the State is, therefore, unable properly to present its side of the case.

To permit the claimants to go before the Court of Claims now would be to encourage similar delays on the part of the claimants, probably to the injury of the State's interests."

May 6.

Veto of Assembly bill entitled "An act to authorize the adjudication and settlement of the taxes and assessments and the interest thereon for the non-payment of same upon property in 120th street in the city of New York, sold by the mayor, aldermen and commonalty of the city of New York to Henry McCaddin."

"This bill is of doubtful propriety and is objected to by the local authorities."

May 6.

Veto of Senate bill entitled "An act to amend chapter fifty-eight of the Laws of eighteen hundred and ninety, entitled 'An act to incorporate the city of Corning.'" [31]

"These amendments to the charter seem to be opposed by a large number of prominent citizens of Corning, and no sentiment in their favor has manifested itself during the pendency of the bill before me. The provisions are of somewhat doubtful propriety, and no harm will result from postponing action until the next session of the Legislature, when any desired changes in the charter can be more carefully considered."

May 6.

Veto of Assembly bill entitled "An act to amend chapter two hundred and seventy of the Laws of eighteen hundred and eighty-five, entitled 'An act for the preservation of the public health and the registration of vital statistics.'"

"This measure is unnecessary, full power to accomplish its purposes being already granted to local boards of health under general laws."

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[31] The Corning charter was amended in 1894, chapter 217, in several particulars.

May 6.

Veto of Senate bill entitled "An act to provide for the protection of the Cayuga and Seneca canal by repairing the berme bank and breakwater at the foot of Seneca lake, in the counties of Seneca and Ontario, between the outlet and the canal bridge at Geneva."

"Both the title and substance of this bill seem to be misleading. The alleged liability of the State is questioned, and the canal is not in pressing need of the protection proposed to be provided for."

May 6.

Veto of Senate bill entitled "An act to authorize the Superintendent of Public Works to construct a wall from where the present wall of a dam built across the Mohawk river for the purpose of feeding the Erie canal ends, along the west side of said Mohawk river at the rear of lots on Bouck street, in the city of Rome, Oneida county, and to continue said wall to a railroad bridge where the New York Central and Hudson River Railroad crosses the Mohawk river, and to make appropriation therefor and regulating the loading and unloading of canal boats."

"This bill provides for greater expenditure than is needed, in the opinion of the Superintendent of Public Works, and contains general legislation relative to the discharging or loading of cargoes which is regarded by the Department of Public Works as objectionable."

May 6.

Veto of Senate bill entitled "An act making appropriations for protecting the highway along the foot and west shore of Owasco lake."

"A similar bill was vetoed by me last year. As I stated in my veto message at that time there is considerable doubt about the liability of the State. Inasmuch as litigation to test this question is now pending in the courts, it would seem to me to be unwise to prejudice the litigation by any such assumption of the State's liability as the enactment of this bill would imply." *

May 6.

Veto of Senate bill entitled "An act to provide for enlarging and enclosing in a suitable manner the family burial lot upon which are interred the remains of General Nicholas Herkimer, and also to erect thereon a monument to his memory, and making an appropriation therefor." [32]

"This bill is objected to for the reasons stated in my message to the Senate April 17, 1893, in disapproving Senate bill No. 337, entitled 'An act to establish the Memorial Hall of the State of New York, at White Plains.'"

May 6.

Veto of Assembly bill entitled "An act to establish an epileptic colony." [33]

"My observation of the management and workings of our State charitable and reformatory institutions has impressed upon me the grave responsibility which rests upon the Legislature and the Executive in authorizing the establishment of any new institution to be built and maintained at public expense.

So great has been the demand in recent years from charitable associations and social reformers to extend the field

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**Ante*, p. 141.

[32] A monument to General Nicholas Herkimer was provided for in 1895, by chapter 618, which appropriated $3,000 for this purpose, including also the enlargement and improvement of the Herkimer burial lot situated in the town of Danube, Herkimer county.

[33] The Craig colony for epileptics was established in 1894, by chapter 363. The colony was to be established in Livingston county, and the act declared it to be in honor of the late Oscar Craig of Rochester, New York, "whose efficient and gratuitous public services in behalf of epileptics and other dependent unfortunates the State desires to commemorate."

The act provided for a board of managers and details of administration, and appropriated $140,000. The colony was located at Sonyea.

of the State's activity in this direction, that the number of these institutions has been largely multiplied and the capital invested has reached a stupendous sum. For the insane alone the State has established nine great hospitals at a cost of about $11,000,000, while the money invested in other institutions would probably reach at least nine millions more. The appropriations for charities at the present session of the Legislature have been the largest in the history of the State. They approximate over $4,200,000, of which $2,856,000 was for the insane; $240,000 for the deaf and dumb; $85,000 for the blind; $537,000 for youthful offenders, and $177,000 for idiots and feeble-minded persons. This is nearly half the total appropriations from the general fund by the Legislature. It is almost as much as the total State revenues from indirect sources including the inheritance tax and taxes on corporations.

I do not mention these figures in criticism or complaint, but merely to focus attention upon the magnitude of the undertaking which the State has gradually assumed. So spasmodically have these institutions come into existence and so insidiously have they increased the annual budget of appropriation that few taxpayers, I dare say, are aware of the proportions which the State's charities have now assumed.

It is these huge proportions which force home to me, in considering legislation of this character, the grave responsibility of determining whether measures to thus extend the scope of the State's efforts are surrounded by the necessary safeguards to insure economy and efficiency of administration. It is a surprising commentary on legislation of this kind in the past that the very measures enacted for the improvement of society should be so lax in their construction as to invite and encourage the grossest extravagance and carelessness in official administration. The management in most cases has been intrusted to subordinates appointed by boards of honorary officials, which have no direct responsibility to the State and are so constituted as to discourage watchful and responsible supervision. Until the State Care Act of the present year was passed, no legislation of this character had in it the ordinary precautions which any business man would insist upon relative to the purchase of supplies or the auditing of expenditures.

With these convictions, together with others which I shall state, I find myself unable to approve this measure in its present form and at the present time. Until the State has fully solved the problem of establishing on a firm, economical, business-like and intelligent basis the charities which it has already undertaken, I question seriously the propriety of undertaking any new project, no matter how forcibly its object may appeal to humane instincts. The establishment of a colony of epileptics as a State undertaking is undoubtedly a needed and worthy movement, but an appropriation for this purpose, particularly in the present stage of State charities, would be a wrong use of public money were the measure embodying it not wisely drawn and insufficiently guarded for the protection of public interests.

Aside from its appearance at an inopportune time the bill has the great objection of placing the management of the proposed institution in the hands of a board of managers consisting of seven men and two women, each selected from one of the eight judicial districts of the State and one additional member from New York. Practically the whole responsibility therefore would rest upon this board, not chosen from the immediate locality where they could exercise personal scrutiny over the institution, but scattered all over this State. Judging from experience of this kind in the past it is a safe prediction that however carefully chosen such a board of managers might be, it would be unable to give the necessary attention to the practical administration of the institution. Moreover the bill nowhere imposes on the managers any direct responsibility to any officer or department of the State government, prescribes no safeguards of value surrounding the purchase of supplies or the audit of accounts, and merely directs the State Board of Charities to certify what appropriations may be necessary. In the absence of reasonable safeguards in its provisions I cannot conscientiously give my approval to the measure.

The State is now engaged in an earnest endeavor to carry into effect the provisions of the act for the public care of the insane. To place the 440 patients now in county poorhouses in the State hospitals, has required extraordinary expenditures during the present year for the completion of the necessary buildings. Until these insane are transferred and the State Care Act is firmly established no new undertaking of a similar kind should be assumed by the State, and any measure establishing a new public institution should be framed in accordance with an intelligent scheme for insuring honest and economical management.''

May 6.

Veto of Assembly bill entitled "An act to authorize the purchase by the State of certain lands and buildings in the county of Ulster, used formerly as a county asylum for the insane, and to appropriate the money necessary therefor."

'' The State has no use for the property proposed by the provisions of this bill to be purchased. Neither is there any obligation on the part of the State to buy. The county of Ulster at its own risk accepted a license from the State Board of Charities under the provisions of the so-called 'Willard Exemption Act.' The license was subject to forfeiture when there was a failure to comply with the terms of the grant. The county failed to comply with the terms of the license, and the only just ground upon which the State could take possession of the property would be to utilize it as a part of the system of State institutions. The State, however, has no present use for the property, and the expenditure called for by the bill is entirely unnecessary.''

May 6.

Veto of Assembly bill entitled "An act to provide improved transportation facilities for the New York State Reformatory at Elmira."

" From personal examination I am inclined to think that it would be economical for the State to construct a railroad between the State Reformatory at Elmira and the regular lines of railroad running through the city. Such communication would save considerable money in the hauling of supplies. I do not believe, however, that it is advisable or economical for the State to ' equip, maintain and operate ' such a railroad. I would be willing to approve a reasonable appropriation for building the necessary tracks so that railroads carrying freight to the Reformatory could run their cars over these tracks, but this is as far as the State, in my judgment, should go in the railroad business."

May 6.

Veto of Assembly bill entitled "An act to acquire additional land for the State rifle range at Bath-on-the-Hudson and making an appropriation therefor."

" This appropriation is not approved for the reason that the expenditure authorized is not deemed advisable at the present time."

May 6.

Veto of Assembly bill entitled "An act to provide for waste-gates in the State dam across Black river at Carthage, and appropriating money to construct the same, and providing for a keeper thereof."

" Both the State Engineer and the Superintendent of Public Works report to me that the sum appropriated by this act — namely, four thousand dollars — is by no means sufficient to construct such waste-gates as would answer the purpose of the bill, if indeed any gates at all would accomplish the purpose. There is danger also that the undertaking would involve the State in numerous suits for damages. A measure of such doubtful advantage should not receive Executive approval."

May 6.

Veto of Assembly bill entitled "An act to provide for the construction of a swing or hoist bridge over the Erie canal, at Crouse avenue or Beach street, in the city of Syracuse, and making an appropriation therefor; and to authorize the city of Syracuse to levy a tax to provide the means to defray its share of the cost of such construction."

"I am informed by the Superintendent of Public Works that the present bridge is in good condition. The State has expended an unusually large amount of money — several hundred thousand dollars — this year in rebuilding canal bridges, and the interests of economy demand that no more expense should be incurred for this purpose except where the conditions imperatively require."

May 6.

Veto of Assembly bill entitled "An act to provide for the making of repairs and improvements in and about the State armory at Walton, Delaware county, and making an appropriation therefor."

"From protests which have been filed with me from citizens of Delaware county, I should doubt the expediency of this appropriation at the present time."

May 6.

Veto of a bill entitled "An act in relation to the Eastern New York Reformatory, located in the town of Wawarsing, Ulster county, State of New York, established by and under section one, chapter three hundred and thirty-six, Laws of eighteen hundred and ninety-two."

Veto of a bill entitled "An act to provide for the appointment of a commission to locate an Institution for Inebriates in the State of New York."

Veto of a bill entitled "An act to establish the 'Boys' Industrial Home of New York State.'"

"These bills all contemplate the establishment of new corrective institutions, to be built and maintained at State expense. The general objections stated in my memorandum disapproving the bill to establish an epileptic colony apply with equal force to these bills. They are besides faultily drafted, and apparently with the main purpose of committing the State to the establishment of the institutions — leaving to subsequent Legislatures the responsibility of outlining their scope and imposing suitable safeguards. I am convinced that there is no present necessity for at least two of the measures, and, moreover, that any new reformatory institution should be under the supervision of the Superintendent of Prisons and subject to the restrictions and safeguards which that control would imply."

May 6.

Veto of Assembly bill entitled "An act to amend sections thirty-one hundred and thirty-one and thirty-one hundred and twenty-one of the Code of Civil Procedure, relating to judgments in actions by employees for wages and the enforcing of the same."

"This measure is very defectively drafted. It is doubtful what purpose it is intended to accomplish and still more doubtful whether it would accomplish such purpose as it has."

May 6.

Veto of Assembly bill entitled "An act to amend the Railroad Law, in relation to electric-light and power corporations becoming railroad corporations."

"This bill confers novel and perhaps unwise privileges upon electric-light and power corporations. It does not seem to be framed to meet any general demand, but is intended undoubtedly to affect some special interest. While this is no ground for disapproval, the terms of the measure are so questionable that I am constrained to withhold my signature."

May 6.

Veto of Assembly bill entitled "An act to prohibit the obstruction to the flow of surface waters, within the State, so as to prevent the natural discharge thereof from lands above such obstruction."

"I doubt the propriety of the enactment of this measure. Its provisons are too broad. Sufficient legal remedies for the abuse described already exist."

May 6.

Veto of Assembly bill entitled "An act to amend chapter one hundred and twenty-seven of the Laws of eighteen hundred and ninety-two, entitled 'An act to secure independence of voters at town meetings, secrecy of the ballot, and provide for the use of the Myers' automatic ballot-cabinet,' so as to include village elections."[34]

"This bill extends to villages the power to use the so-called Myers' automatic ballot-cabinet at village elections. It is clearly in violation of art. II, sec. 5 of the Constitution which reads: 'All elections by the citizens shall be by ballot except for such town officers as may by law be directed to be otherwise chosen.' I doubt whether any lawyers would seriously contend that voting by this machine was voting by ballot within the meaning of the Constitution."

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[34] The use of automatic ballot cabinets at village elections was authorized in 1894, by chapter 765. An act passed at the same session, chapter 764, authorized the use of the Myers' cabinet at elections in towns and cities.

In 1899, by chapter 466, article 7, relating to voting machines, was added to the election law. It contained detailed provisions relative to the use of these machines and repealed prior statutes on the same subject.

The Constitution of 1894, article 2, section 5, authorized the use of voting machines.

May 6.

Veto of Assembly bill entitled "An act to incorporate the Wolf Island Bridge Company for passengers and other traffic, together with the appurtenances, approaches thereto and stations."

"I object to this bill because it is too sweeping in its terms. The company was originally restricted to building a bridge from some point in the State of New York to a point at or near Kingston, in the province of Ontario. This restriction is proposed to be removed, and the company is to be allowed to build a bridge anywhere over the Saint Lawrence river between Ontario and the State of New York. Inasmuch as several charters for the construction of bridges at various specific places along the river between this State and Canada have been granted, it would be unfair to give to this one corporation the exceptional and sweeping privilege of locating its structure anywhere it might choose."

May 6.

Veto of Assembly bill entitled "An act to amend chapter five hundred and eighteen of the Laws of eighteen hundred and sixty-seven, entitled 'An act to amend an act to incorporate the village of White Plains,' passed April third, eighteen hundred and sixty-six, passed April twenty-second, eighteen hundred and sixty-seven, as amended by chapter eight hundred and five of the Laws of eighteen hundred and seventy-one, and to amend chapter three hundred and fifteen of the Laws of eighteen hundred and seventy, entitled 'An act to amend chapter five hundred and eighteen of the Laws of eighteen hundred and sixty-seven, entitled "An act to amend an act to incorporate the village of White Plains,"' passed April third, eighteen hundred and sixty-six, and the several acts amendatory thereof."

"This bill is too defective in its construction to permit it to become a law. Its enactment would lead to confusion and embarrassment."

May 6.

Veto of Assembly bill entitled "An act to amend chapter one hundred and nineteen of the Laws of eighteen hundred and eighty-nine, entitled 'An act to amend, revise and consolidate the laws in relation to the village of Penn Yan, in the county of Yates.'"

"The local authorities have requested me to withhold my approval from this measure, and I comply with their request."

May 6.

Veto of Assembly bill entitled "An act to establish a pension fund for the paid fire department of the city of Rochester, New York."[35]

"I would not object to any well-considered measure to establish a pension fund for members of the paid fire department, but the objectionable feature of this bill is that which would divert from the pension fund established for the benefit of exempt and volunteer firemen, their orphans and widows, one-half of the two per cent. tax on foreign insurance companies. The revenues from this source are now set apart for volunteer and exempt firemen, their widows and orphans and disabled members of the paid fire department, and to divert one-half of the income from this worthy object would be a grave injustice to those who served without pay in the old volunteer department. The bill should be modified so as to eliminate this unjust provision from its requirements.

The local authorities are in favor of the measure, but I cannot allow this fact to compel my approval of a provision which in my opinion would be unfair to volunteer firemen and their families. I have served among them and sympathize with the risks and hardships which they have taken and endured."

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[35] The firemen's pension fund was established in Rochester in 1894, chapter 524.

May 6.

Veto of Assembly bill entitled "An act to amend chapter four hundred and thirty-two of the Laws of eighteen hundred and sixty-eight, entitled 'An act to constitute a separate road district in the towns of Fairfield, Manheim and Little Falls, Herkimer county.'"

"There seems to be considerable local hostility to the enactment of this measure. The supervisors of the towns affected are opposed to it, and no good reason has been advanced why it should become a law."

May 9.

Veto of Assembly bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of John Roberts."[36]

"This bill involves a somewhat novel claim against the State. In 1877 John Roberts was convicted of burglary in the first degree and sentenced to imprisonment at hard labor in State prison for the term of twenty years. On October 21, 1878, he was pardoned by Governor Robinson, who said in granting the pardon: 'After careful investigation there is a grave doubt as to the guilt of the prisoner. This is concurred in by District Attorney Downing, who conducted the prosecution, Judges Pratt and Armstrong, the Sheriff and County Clerk, and the Justices of Sessions.'

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[36] An act passed in 1895, chapter 342, authorized the Board of Claims to hear the claim of John Roberts for the damages sustained by him by reason of his improper conviction and imprisonment for the alleged crime of burglary.

Roberts presented his claim to the Board of Claims, and obtained an award for damages. The award was reversed by the Appellate Division of the Supreme Court, and its judgment was affirmed by the Court of Appeals in Roberts v. State, 160 N. Y. 217 (1899), on the ground that Roberts had no claim against the State. He received a pardon, but the judgment of conviction remained unreversed. The Court of Appeals said further that the evidence showed that the claimant was properly convicted.

Upon this ground of his innocence and in order to secure from the State some pecuniary redress for his unjust imprisonment of twenty-one months, this bill is passed to enable Roberts to go before the Board of Claims and prove his right to compensation. It will be seen that this presents an interesting and novel question of legislation. Individually it would seem to every honest and law-abiding citizen that an unjust imprisonment, involving disgrace, and loss of time and occupation, would in equity entitle him to just remuneration at the hands of the State, and even a generous money consideration would seem to be slight compensation for the personal loss sustained. Yet it has not been the policy of the State to recompense innocent persons for damages of this sort, and to permit such a bill as this to become a law would be establishing a precedent of doubtful propriety. Not only would it extend beyond its original scope the jurisdiction of the Board of Claims, but it would lead to a strange mixture of legal powers in that tribunal, inasmuch as the first fact to be established in determining such a claim would be the innocence of the claimant or the injustice of his conviction and imprisonment. The criminal trial must of necessity be gone over again, and at a time probably when evidence would be hard to collect. It would puzzle any court, moreover, to estimate the amount of damages which such a claimant might be entitled to, for it would be almost impossible to determine the money value of a false imprisonment.

If this bill were to become a law there would be a number of similar bills before the next Legislature and there is no telling what such a departure from established State policy would lead to. The questions presented are too serious to warrant me in allowing the bill to become a law."

May 9.

Veto of Assembly bill entitled "An act to amend chapter three hundred and five of the Laws of eighteen hundred and fifty-seven and the acts amendatory thereof."

"This bill should have been approved prior to the first Tuesday of May to have been of use. To enact it now would create confusion."

May 9.

Veto of Assembly bill entitled "An act to authorize and empower the board of trustees of villages incorporated under chapter two hundred and ninety-one of the Laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages,' to construct and repair crosswalks and assess the cost for the same on the property benefited."

"The bill is defectively drafted and somewhat impracticable. The construction and repair of crosswalks should be a general charge upon all the taxpayers of a village, rather than upon the property owners in the immediate vicinity."

May 9.

Veto of Assembly bill entitled "An act to prescribe the medical treatment, in certain cases, of persons committed to penitentiaries for intoxication in public places."

"Until modern treatments for intemperance shall have been clearly demonstrated to be effectual and without danger, I question the advisability of the State's enacting such mandatory legislation as that contained in this bill. Moreover, if such treatment is found to be practicable the law should be extended to include county jails, where most of the prisoners are victims of intemperance."

May 9.

Veto of Assembly bill entitled "An act to amend chapter four hundred and thirty-one of the Laws of eighteen hundred and eighty-four, entitled 'An act to amend the charter of the Saint Vincent's Retreat for the Insane.'"

"This special bill is rendered unnecessary by the enactment of chapter 498 of the Laws of 1893."

May 9.

Veto of Assembly bill entitled "An act to provide for the payment of rent for certain buildings in Long Island City, used for educational purposes by said city."

"This bill is unnecessary. Chapter 646 of the Laws of the present year makes ample provision for the determination of valid claims against Long Island City. Moreover the courts have adjudged the claim in question to be without existence in law or fact."

May 9.

Veto of Assembly bill entitled "An act to provide for medical and surgical aid and treatment for the sick poor of Long Island City, and county of Queens."

"The Mayor of Long Island City protests against the enactment of this measure chiefly on the ground that its enactment would deprive the city of all available funds for suppressing epidemics of contagious diseases. The city has recently been invaded by small pox, and the possibility of an extension of that disease or the entrance of another would seriously cripple the city's financial resources. I am constrained therefore to withhold my approval."

May 9.

Veto of Assembly bill entitled "An act in relation to the improvement of Grand avenue and Main street in Long Island City, and to provide for a part of the expense thereof."

" The improvement already undertaken on these streets has evidently not given satisfaction to the people of the city, and three-fourths of the property owners along the so-called improvement have filed with me a protest against the enactment of this measure. The mayor joins in this protest, with the further suggestion that the work already done is so inferior in quality that part of it will have to be done over again."

May 9.

Veto of Assembly bill entitled "An act to authorize the board of trustees of the First German Methodist Episcopal Church in the city of New York to hold certain lands for cemetery purposes."

" This bill authorizes the trustees of the First German Methodist Episcopal Church to acquire not exceeding twenty-five acres in the town of Newtown, in the county of Queens, for cemetery purposes.

A pathetic protest has been filed with me by the citizens of Newtown against legislation authorizing the establishment of any more grave-yards in their town. The dead inhabitants are rapidly crowding out the living. There are twenty-four cemeteries and they cover one-eighth of the town. The live population is less than 20,000; the dead population is upwards of 1,350,000. There are more than 33,000 funerals a year and the people pay $43,000 a year to keep the highways passable for hearses and carriages.

Every new grave-yard exempts so much more of the township from taxation and leaves a heavier burden for the living to carry. The tax rate for the past twenty-one years has averaged over $3.70 upon every hundred dollars of valuation, not including school taxes at all. The land not used for cemetery purposes is owned chiefly by farmers, gardeners and small property owners, who can hardly afford to move away, but must stay and endure the burden of high taxes and melancholy surroundings.

Moreover the presence of so many cemeteries seems to affect seriously the health of the community, for the death rate is higher than in any town in the State.

So melancholy a picture is sufficient reason for withholding my approval from this measure. It suggests the necessity for some more economical means of caring for the bodies of the dead of great cities. To enable societies and associations to acquire for this purpose the most available sites of towns in the suburbs of New York and Brooklyn and gradually to take possession of a generous part of the township, and thereby secure exemption from taxation, presents serious questions, for which the rapidly increasing populations of the cities and the cemeteries demands speedy and wise solution."

May 10.

Veto of Assembly bill entitled "An act to provide for the construction of an iron bridge across Long Lake, in Hamilton county, and making an appropriation therefor."

"This bill appropriates forty thousand dollars to build a bridge across Long Lake in the Adirondacks. Such a bridge would serve a useful purpose in furnishing communication between two parts of the Adirondacks now separated by this long sheet of water, but I see no present reason why the State should build the bridge. If, as a feature of the improvement and development of the Adirondack Park, the Forest Commission should in the future consider this bridge to be needed there might be justification for the State's undertaking the project, but I think under present circumstances the people of the State would hardly justify so great an expenditure."

May 10.

Veto of Senate bill entitled "An act to provide and maintain a nautical school for the State of New York and to merge therein the present nautical school maintained by the board of education of the city of New York."

"This proposed transfer to the State of the nautical school now maintained by the board of education of the city of New York is urged upon the ground of enlarging the usefulness of the school and giving boys from all parts of the State an opportunity to avail themselves of the benefits of a nautical education. While such an extension of the advantages of this school would be valuable, I doubt whether they are sufficient to justify the State in assuming control of an additional institution. The State has at present about as many institutions of an educational nature as it can well care for and no new responsibility should be assumed except where it is for the unmistakable good of the State and the great majority of its people. Moreover, the bill provides for a perpetual appropriation of $40,000 a year."

May 10.

Veto of Senate bill entitled "An act to provide for dredging the Ohio basin, its entrance and its slip to Elk street, in the city of Buffalo, and to make an appropriation therefor."

"This bill is objected to and disapproved for the reason that the expenditure of the twenty thousand dollars provided for is not deemed necessary or advisable at the present time."

May 10.

Veto of Assembly bill entitled "An act to incorporate the New York Finance Company."

"In addition to the powers granted to this company to guarantee contracts, it is also authorized by this bill to do a trust company business with the following advantages over trust companies incorporated under general law:

1. Its capital is placed at $100,000. Other trust companies in the city of New York are obliged to have a capital of at least $500,000.

2. It can invest its capital in any securities it sees fit. Other trust companies are obliged to invest in permanent securities.

3. It is relieved from the operation of the usury laws. Other trust companies are subject to the usury laws.

4. The stockholders of this proposed company are only individually liable for the amount of stock held by them respectively. Stockholders in other trust companies are individually liable not only for the amount of stock subscribed by them, but for a corresponding amount in addition thereto.

There are other provisions of the bill whereby the company is relieved from obligations imposed upon other trust companies. The last trust company incorporated by special charter was in the year 1884. All companies organized since 1884 have been incorporated under the general act. I see no reason why special legislation conferring unusual advantages should be bestowed upon this corporation."

May 10.

Veto of Assembly bill entitled "An act to amend chapter five hundred and fifty-three of the Laws of eighteen hundred and eighty-five, entitled 'An act to incorporate the Citizens' Loan Agency and Guarantee Company.'"

"I suspect that the main object of this bill is to resuscitate a defunct corporation. It gives a special advantage to this company over other companies in authorizing it to incorporate with only half the amount of capital stock which the general law for the incorporation of trust companies requires in the case of companies located in New

York city. In the opinion of the Superintendent of Banks, moreover, the bill is objectionable in authorizing the issue of both preferred and common stock, inasmuch as the company is a banking corporation."

May 10.

Veto of Assembly bill entitled "An act to amend section one hundred and thirty-six of the Game Law."

"This bill amends the same section of the Game Law as is amended by chapter 573 of the Laws of 1893, which I have recently approved. To sign the bill, therefore, would nullify the provisions of the prior amendment whose enactment is more desirable, in my judgment, than that now before me."

May 10.

Veto of Assembly bill entitled "An act in reference to the incorporation of the village of Saranac Lake."

"The Constitution says that the Legislature shall not pass a private or local bill incorporating villages.[d] While in title this bill does not incorporate the village of Saranac Lake, in substance it certainly appears to have that object. In my judgment, therefore, it is unconstitutional."

May 10.

Veto of Assembly bill entitled "An act to legalize the official acts of Delos A. Bellis as police justice of the village of Penn Yan, county of Yates and State of New York."

"This bill is too sweeping in its terms and fails to specify the particular acts which are intended to be legalized.

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[d] Const. 1846, art. 3, § 18, added 1874.

May 10.

Veto of Assembly bill entitled "An act to amend the county law."

"This bill is defectively drafted and no harm can come from postponing its enactment till another year when more care can be taken with its construction."

May 10.

Veto of Assembly bill entitled "An act to amend chapter three hundred and forty-two of the Laws of eighteen hundred and eighty-five, entitled 'An act for the better security of mechanics, laborers and others who perform labor or furnish materials for buildings and other improvements in the several cities and counties of this State, and to repeal certain acts and parts of acts.'"

"The amendment proposed by this bill is evidently well-intended but the language is too confused to make sense. The measure is therefore disapproved."

May 11.

Veto of Assembly bill entitled "An act to amend the Penal Code, relating to purchases of property by false pretenses."

"As section 544 now stands, a false pretense which relates to the purchaser's ability to pay is not criminal unless it is in writing and signed by the party to be charged.

The reason for this restriction was, doubtless, the danger of holding a person criminally liable for merely casual conversation respecting his means, which might be easily misunderstood or even by a slight variation materially misrepresented. A vendor of goods might be strongly tempted to misuse a more lax statute to collect a debt rather than to punish a crime.

The proposed amendment would modify this section by providing that when a previous written statement has been made, a false verbal statement of the purchaser that his means or ability have not changed, or a fraudulent concealment of any such change, shall be criminal.

Such an amendment would restore the old danger of misunderstanding or misrepresenting verbal statements. That danger is just as great when the conversation refers to a prior written statement, and even greater where there is claimed to be a failure to make known any change in the purchaser's circumstances. A new written statement can be always required if a new credit is asked for. Then there can be no misunderstanding as to the exact representations made by the vendor. It is right that a seller should be protected against actual fraud and the section as it now stands is sufficient for that purpose."

May 11.

Veto of Assembly bill entitled "An act to amend the Code of Criminal Procedure."

"I would cheerfully approve the second section of this bill, which provides for the personal examination and cross-examination of persons who make affidavits for use on a motion for a new trial on the ground of newly-discovered evidence, if it stood alone, but the first section amends section 56 of the Code of Criminal Procedure, and does not embody the important amendments to that section contained in chapters 150 and 570 of the Laws of this year. To approve this bill, would, therefore, lead to much confusion, and besides, it is doubtful if the jurisdiction of a court of special sessions should be restricted to the town, city or village in which it is held."

May 11.

Veto of Assembly bill entitled "An act to amend the Code of Civil Procedure."

"The second section of this bill, if it became a law, would reduce to two years the time within which an action may be commenced to recover for damages to property, or to procure an injunction where the cause of action arises from damages to property, caused by the construction, maintenance and operation of a railway.

It is said with some force that the present periods of limitation (six and ten years), are unreasonably long, and that no injustice would be done to the owners of property along the line of a railroad by requiring them to bring suit within a much shorter time. It is probable that a less period — say three years — would ordinarily suffice. Such a measure, however, should be submitted for legislative action or executive approval on its merits, and without the defects which render impossible the favorable consideration of this bill. After providing that the cause of action 'is to be deemed to have accrued from the time of the actual commencement of the operation and the opening to the public for the purposes of transportation of that portion of the railway which is adjacent to the property for injury to which the action is brought,' the bill goes on to say: 'Except that in cases where a railway has been in operation before the passage of this act, the cause of action is to be deemed to have accrued at the time of the passage of this act.' These are not apt words with which to amend an act which became law in 1876, nor would it be fair to either a private individual or a railway company to compel tedious litigation in the courts over language, the construction of which is so manifestly uncertain.

Again, the third section of the bill, with which the other must stand or fall, is especially objectionable. It allows a court in or to which an appeal is taken to supply defects in an attempted appeal, even an omission to file or serve any notice of appeal whatever, if a case or exceptions are filed with the clerk or served on the adverse party. To give the courts power to thus extend the time to appeal would be a radical innovation and is certainly contrary to the public interests which require reasonable certainty in the time within which appeals from one tribunal to another must be taken."

May 11.

Veto of Assembly bill entitled "An act to provide for the care and preservation of the parks and trees on the Boulevard and West End avenue in the city of New York."

" The local authorities of New York are opposed to the transfer of control provided for in this bill and have requested me to withhold my approval from it."

May 11.

Veto of Assembly bill entitled "An act to amend chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the department of fire."

" The local authorities are opposed to this bill. Any meritorious case arising under its provisions they have now ample authority to determine without the necessity of special legislation. Moreover, that feature of the bill which purports to regulate the salaries of subordinate officials in a municipal department is on general principles worthy of condemnation."

May 11.

Veto of Assembly bill entitled "An act to provide for the acquisition of water front for the city of Brooklyn."

" This bill authorizes the appointment of a commission consisting of the Mayor, Comptroller and President of the Board of Aldermen to investigate the ' wisdom, expediency and policy ' of the acquisition of the entire water front of the city by purchase or condemnation. I am informed that the mayor regards such a scheme of purchase impracticable and likely to involve the city in the expenditure of a great many millions of dollars. The appointment of a commission therefore, and the expenditure of $10,000, authorized for its expenses, are a doubtful use of public money."

May 11.

Veto of Senate bill entitled "An act to amend chapter three hundred and sixty-five of the Laws of eighteen hundred and eighty-nine, entitled 'An act to provide for certain improvements in the eighth ward of the city of Brooklyn,' as amended by chapter four hundred and fifty-two of the Laws of eighteen hundred and ninety."

"Identically the same bill is now a law constituting chapter 587 of the Laws of 1893."

May 11.

Veto of Senate bill entitled "An act to close a portion of Clymer street, in the city of Brooklyn, and strike the same from the commissioners' map of the city of Brooklyn."

Assembly bill entitled "An act to close a certain part of Heyward street, in the city of Brooklyn, and to strike the same from the commissioners' map."

"I have just signed a bill amending the charter of the city of Brooklyn so as to give the common council 'power, with the consent of the mayor, to lay out streets in said city and to place the same on the commissioners' map and to change said map by closing and striking therefrom or altering the lines of any street now on or hereafter placed on said map.

These bills are therefore unnecessary."

May 11.

Veto of Assembly bill entitled "An act to provide for the completion and betterment of the State armory at Catskill, New York, and making an appropriation therefor."

"I am informed by the Adjutant-General that there is no particular necessity for the enactment of this bill at the present time."

May 11.

Veto of Assembly bill entitled "An act to define and declare the responsibility for maintaining a certain bridge over Minisceongo creek in the county of Rockland, a navigable tide-water stream, said bridge being known as the Penny bridge, and having a draw to permit the passage of vessels plying in such stream."

"I am not aware that there is any obligation on the part of the State to assume charge of and maintain this bridge."

May 11.

Veto of Senate bill entitled "An act to provide for improvements in streets and highways in towns within counties containing upwards of six hundred thousand inhabitants."

"Although general in terms, this bill affects exclusively the town of New Utrecht. The scheme of the act is to provide for a system of local improvements and it authorizes an expenditure of not exceeding $800,000 for these purposes. I have already approved a bill authorizing the expenditure of $500,000 for purposes of local improvement in this town and so great appears to be the local opposition to this additional measure that I am compelled to withhold from it my approval."

May 11.

Veto of Assembly bill entitled "An act to authorize the Seneca Falls School of Anatomy to procure, receive and dissect dead bodies."

"There is no such school of anatomy now incorporated. If it is intended indirectly by this act to incorporate said school, the bill is unnecessary, inasmuch as a general law already provides for the incorporation of such institutions. As to the authority conferred by this bill to procure, receive and dissect dead bodies that is sufficiently taken care of by the public health law."

May 11.

Veto of Assembly bill entitled "An act to establish a State board of undertakers and to regulate the practice of undertaking."[37]

"I am constrained to refuse my approval to this act. It is opposed by the State Board of Health, which fears that, as at present drafted, the measure would create conflict between that board and the State examining board of undertakers which it is proposed to establish. This objection would control my action on the bill regardless of any opinions which I might have as to the substantial merits of the measure."

May 11.

Veto of Assembly bill entitled "An act for the relief of certain counties."

"It is extremely doubtful whether counties included under the provisions of this proposed act have any equitable claim against the State. Any building or buildings which were erected prior to April 15, 1890, to be used solely as a county asylum for the insane, were constructed at the risk of the counties and in pursuance of licenses granted by the State Board of Charities which were expressly revokable at pleasure in their terms.

This bill, moreover, does not submit to the Board of Claims the question of whether liability exists on the part of the State, but assumes such a liability, and merely authorizes the Board of Claims to fix the amount of such liability.

There is scarcely a county in the State, except Kings and New York, whose injuries by reason of the State Care Act are greater than the benefits conferred by that act.

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[37] A State Board of Embalmers was created by an act passed in 1898, chapter 555. The act provided for licensing embalmers after an examination upon questions approved by the State Board of Health. An addition to the act made in 1904, chapter 498, provided for licensing undertakers.

Its provisions and operation save to each county almost fifty per cent of the amount which the county formerly raised by taxation for the support of its insane under the old county care system. The figures of actual saving were presented by me some time ago in my memorandum approving the appropriation for carrying into effect the provisions of the State Care Act."*

May 12.

Veto of Assembly bill entitled "An act to amend chapter five hundred and twenty-nine of the Laws of eighteen hundred and eighty-seven, entitled 'An act to regulate the hours of labor in the street surface and elevated railroads chartered by the State, in cities of one hundred thousand inhabitants and over.'"

"While ostensibly in the interest of employees of street surface and elevated railroads, this bill repeals more privileges than it confers. Its chief advantage is the extension of the ten-hour law to cities of more than 75,000 inhabitants. This would affect two cities not included within the operation of the law at present.

The bill's great disadvantage is that it exempts New York city and its thousands of street surface and elevated railroad employees from the beneficial effects of the existing ten-hour law. I am not aware that the workingmen employed upon street railroads in that great city care to be exempted from the provisions of an act which they were largely instrumental in passing, and which has served a useful purpose in shortening their hours of labor."

May 12.

Veto of Senate bill entitled "An act to amend section nine hundred and thirty-seven of the Code of Civil Procedure, relating to the proof and acknowledgment of instruments and the effect of the same as evidence."

"If I was sure that the effect of this bill would be simply to change the existing rule of law as to the presumption of the date of delivery of an instrument which has actually been delivered, I would not withhold my approval, but it applies by its terms, taken literally, to all acknowledged instruments whatever, and might well be construed to raise a presumption of delivery where none now exists.

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* *Ante*, p. 226.

In view of the temptation which might thus be afforded to evade the law respecting taxable transfers of property, I deem it better that the bill in its present form should not become a law."

May 12.

Veto of Assembly bill entitled "An act to amend chapter three hundred and seventy-seven of the Laws of eighteen hundred and eighty-seven, entitled 'An act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer or other beverages.'"

"I fear that this bill is too sweeping and radical in its provisions. The inconvenience and possible injustice which it would involve are hardly to be compensated by the advantages of the measure."

May 12.

Veto of Assembly bill entitled "An act to provide for the disposition of excise moneys in the county of Ontario."[38]

"This bill establishes a different rule for Ontario county in the disposition of its excise moneys than for the other counties of the State. It seems to me that such an act should be uniform in its application. I question the advisability of excise revenues from towns being turned into the county treasury as this bill proposes, but such a law if enacted at all should be uniform throughout the State."

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[38] See the liquor tax law of 1896, chapter 112.

May 12.

Veto of Assembly bill entitled "An act to authorize and empower the city of Buffalo to extend Parkside avenue in said city from Agassiz place southwesterly to Delavan avenue, and to take lands of the Buffalo City Cemetery Association for that purpose."

"The officers of the Buffalo City Cemetery Association, through which it is proposed by this bill to extend Parkside avenue, have filed with me a statement in which they protest against the bill's enactment on the ground, chiefly, that the association would be compelled to pay an immediate expense of $22,400 for paving and $3,360 for sidewalks, as its assessment for the improvement. Inasmuch as the cemetery association depends entirely for its revenues upon its sale of lots and as all its revenues have been devoted to embellishing and caring for its cemetery lands, there would seem to be an injustice in compelling the association to bear so much of the cost of the improvement. With this view I have been unable to affix my signature to the measure."

May 12.

Veto of Assembly bill entitled "An act to authorize the State Board of Claims to hear, audit and determine the claim of Carter H. Morgan against the State for damage to his property caused by the State in the construction of a channel from (part of the way), Oil creek reservoir, town of Cuba, New York, to the Genesee Valley canal, and for work and labor done for said State."

"It is understood that this bill is not intended to relieve the claimant from the operation of the short statute of limitation; but in so far as it is intended to legalize the employment of said Morgan by some engineer, it attempts to revive a claim at least a quarter of a century old.

As to that part of the act which gives jurisdiction to the Board of Claims to hear the claim for land appropriated by the State, it has been represented that no statute of limitations has run against the claim, for the reason that no notice of the appropriation has ever been served by the State authorities upon Morgan and no map of the property appropriated has ever been filed pursuant to statute.

Therefore, so far as that part of the act is concerned, it is unnecessary, because the claimant may file his claim in the Board of Claims pursuant to law without reference to this act; and as to the other part, the Legislature cannot revive the claim for services, more than six years having elapsed since the employment."

May 12.

Veto of Senate bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of John R. Putnam against the State, for damages to his property caused by the State, and losses sustained and growing out of the management of the Erie canal, and to make an award therefor."

"The circumstances under which the passage of this bill has been asked from the Legislature indicate that its purpose is to affect pending legislation before the Board of Claims. I am convinced that the measure has not sufficient merit to warrant its enactment."

May 12.

Veto of Senate bill entitled "An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of Charles McKinstry against the State of New York."

"I do not believe that this claimant has any just claim against the State. McKinstry seeks by this act to get reimbursed for the value of certain hogs on his premises destroyed by cholera. He seeks to hold the officer appointed by the Governor responsible for his loss. As a matter of fact the Executive agent examined the hogs at the owner's personal request, and made suggestions relative to the treatment of the disease. He reported at the time that a large number of the hogs would undoubtedly die, which I am informed was the case. Probably more of them would have died had the State Veterinarian not interested himself in the case. To enact this bill would be to establish a dangerous precedent for the future. The law in such cases is well defined. It does not contemplate destruction of cattle except where destruction is necessary to prevent a spread of the disease, and it only contemplates indemnity for cattle destroyed when the destruction takes place upon the order of the Governor or his agent."

May 12.

Veto of Assembly bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Thomas Benway, Junior, against the State for loss and damage to his property caused by the State, and to make an award therefor."

"I fear that such legislation as this would open a field of similar bills, and would revive a number of claims that have already been disposed of. The act of 1870 (chapter 321, section 1) expressly provided that there should be no liability for damages arising from the navigation of the canals."

May 13.

Memorandum filed with Senate bill, chap. 702, extending time for completion of the Yonkers railroad. Approved.

"An explanation of my approval of this bill is due to the parties interested. On May eleventh, I filed a memorandum of reasons for disapproving the measure, and I learn now that the statement of facts upon which the disapproval was based was incorrect. The bill was disapproved on two grounds:

First. That the time for the completion of the road, making due allowance for legal proceedings, expired on February 11, 1893, and that therefore the bill was open to the constitutional objection of being a special bill authorizing a corporation to lay down railroad tracks.[e] The information on which this conclusion was based was furnished from the Railroad Commission. I have since been shown, however, a certified copy of an order of the Supreme Court, dated February 4, 1893, extending the time for the completion of the road until the determination of an injunction suit pending at that time and still pending. Had this information been lodged with the Railroad Commission or the Executive the mis-statement would not have been made and this ground of disapproval would not have existed.

Second. That the bill might be obnoxious to art. III, sec. 16 of the Constitution, in that it not only sought under one title to extend the time for the completion of the road but also to release the company from the obligation of constructing its road on certain streets and avenues in the city of Yonkers. As a matter of fact I learn now that this provision does not release the company from any obligation of this kind, for the company's charter never authorized it to construct a railroad on those streets. The provision was inserted in the bill at the instigation of persons who feared that the charter did give rights to occupy those streets. Consequently there is no releasing of obligations in the bill.

I regret any embarrassment to the company which my previous action may have caused, and with the facts thus presented to me I cheerfully approve the bill."

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[e] Const. 1846, art. 3, § 18, added 1874.

May 15.

Veto of Assembly bill entitled "An act to amend chapter five hundred and two of the Laws of eighteen hundred and eighty-five, entitled 'An act to make the office of the county clerk of Erie county a salaried office, and regulating the management of said office.'"

"This bill is defectively drafted. It overlooks an intermediate amendment of the same chapter contained in chapter 149 of the Laws of 1891."

May 15.

Veto of Assembly bill entitled "An act in relation to the political divisions of the State, constituting chapter three of the general laws."

"I am forced to withhold my approval from this bill by reason of an error contained in the repealing schedule."

May 15.

Veto of Assembly bill entitled "An act to amend section thirty-four of title three of chapter six of part two of the Revised Statutes relative to executors and administrators."

"I am not convinced that this amendment is a wise one, but whether wise or unwise it conflicts with the provisions of the surrogate's law which I recently approved."

May 15.

Veto of Assembly bill entitled "An act concerning the sale of anthracite coal and defining the grade thereof."

"This is a bill unnecessarily interfering with private business, and would not, in my opinion, accomplish the good results which it is intended to accomplish."

May 15.

Veto of Senate bill entitled "An act to amend section nineteen of chapter three hundred and ninety-nine of the Laws of eighteen hundred and ninety-two, entitled 'An act in relation to taxable transfers of property.'"

"This bill allows the county treasurer of each county, except the counties of New York and Kings, to retain from the receipts of the so-called succession tax two dollars for every estate reported by the surrogate, to be applied to providing the surrogate with a transfer tax clerk. I approve of the purpose of the bill, but I think the salary of the clerk should be paid out of the fees of the county treasurer for collecting the succession tax and not out of the State's net revenues from that tax. Should this bill be enacted it would reduce by perhaps fifty thousand dollars each year the revenues to the State from this source. A thorough enforcement of the succession tax imposes additional duties upon the surrogates and they should be supplied with sufficient clerical service, but it is the design of the law that the expenses of collection should be met out of the fees retained by the county treasurer and this bill should have been drafted with that in view."

May 15.

Veto of Assembly bill entitled "An act to amend chapter three hundred and ninety-nine of the Laws of eighteen hundred and ninety-two, entitled 'An act in relation to taxable transfers of property.'"

"While this bill has some desirable amendments to the law affecting the administration of estates, I am constrained to disapprove it for a similar reason to that stated in my memorandum of disapproval of Senate bill No. 300, entitled 'An act to amend section nineteen of chapter three hundred and ninety-nine of the Laws of eighteen hundred and ninety-two, entitled 'An act in relation to taxable transfers of property.' ' The increased salaries provided should not be paid out of the net revenues from the succession tax in the county of New York, but should be paid out of the fees which the Comptroller of New York is allowed to retain for collecting said tax."

May 15.

Veto of Senate bill entitled "An act authorizing the renewal of the leases of the fine salt manufacturing lots on the Onondaga Salt Springs Reservation."[39]

" There appears to be some question whether the enactment of this bill would not by implication involve the State in a serious liability. Inasmuch as the sale of the salt springs is quite likely to be authorized by the forthcoming Constitutional Convention, I think it would be just as well to allow this bill to go over for fuller consideration at a subsequent session of the Legislature."

May 15.

Veto of Assembly bill entitled "An act to amend the highway law."

" No town is liable for any damage resulting to person or property by reason of the breaking of any bridge by transportation on the same of any vehicle and load which together weigh four tons or over. The proposed amendment would increase this maximum weight to five tons or over. With the prevailing condition of highways throughout the State, it seems to me that the law as it stands at present is preferable."

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[39] The Constitution of 1894 abrogated section 7 of article 7 of the existing Constitution which prohibited the sale of the salt springs.

May 15.

Veto of Assembly bill entitled "An act to provide for the opening, grading, paving and improving of Remsen avenue, in the towns of Flatlands and Flatbush, in Kings county."

"There seems to be such widespread local opposition to this measure that public interests will not suffer if the proposed amendment is delayed until it is abundantly demonstrated that the improvement is desired by a majority of the taxpayers."

May 15.

Veto of Assembly bill entitled "An act to make provision for the collection in the county of Kings of the tax under chapter three hundred and ninety-nine of the Laws of eighteen hundred and ninety-two, entitled 'An act in relation to taxable transfers of property,' by authorizing the appointment of a certain officer and making provision for the salary thereof, and for the payment of certain expenses incidental to such collection."

"Aside from being open to the same objection of principle stated in my memorandum disapproving somewhat similar bills for the county of New York and the remainder of the State, this bill is defectively drafted, and, if enacted, would inadvertently abolish the present surrogate's transfer tax clerk in the county of Kings."

May 15.

Veto of Assembly bill entitled "An act to amend chapter four hundred and one of the Laws of eighteen hundred and ninety-two, entitled 'An act to revise and consolidate the laws regulating the sale of intoxicating liquors.'"

"Section eight of the chapter thus amended has already been previously amended during the present session of the Legislature, and the amendment is embodied in chapter 271 of the Laws of 1893. To approve this would be to repeal, by implication, the provisions of chapter 271, which, apparently, was not the intention of the measure. Aside from this difficulty in form, the bill is of questionable propriety in substance.''

May 15.

Veto of Senate bill entitled "An act to make an appropriation for the payment of the awards of the Board of Claims, in claims other than those on account of the canals of this State."

" This is particularly mischievous legislation — mischievous because general legislation of a vicious kind is incorporated in the provisions of a desirable appropriation bill.

The original intention of the bill was to provide for a deficiency of $17,000 in last year's appropriations for canal awards, and to appropriate $75,000 for awards other than canal awards to be made during the present calendar year.

But as the bill has reached the Executive it contains in addition to these appropriations a general provision of independent legislation, to the effect chiefly that upon claims for damages for breach of written contracts interest shall be allowed from the date of the breach, provided an appeal has been heard and the award affirmed. This independent legislation is, in my opinion, thoroughly bad and the appropriations associated with it, which standing by themselves I would readily approve, must suffer the fate of bad company.[40]

This general legislation is intended to cover a particular case where the claimant has already been defeated in the courts, but it would apply as well to any similar cases. The case in question is one in which a claim for damages for breach of contract on the part of the State was awarded by the Board of Claims, and the award was sustained by the Court of Appeals, but the Board of Claims, while allowing damages to the amount of $75,000, refused to allow interest from the date of the breach of contract, and this refusal was affirmed by the Court of Appeals, who said in their opinion: "If this had been a common law action against an individual to recover damages for breach of contracts under precisely the same conditions, we are of opinion that interest could not legally have been allowed to the plaintiff, even from the commencement of the action. The claim is in every sense unliquidated. There was no possible way for the State to adjust the same and ascertain the amount which it was liable to pay, and hence within the decision of White v. Miller (71 N. Y. 118; 78 id. 393), it is not liable for interest. The law in reference to the allowance of interest is not in a very satisfactory condition, but it is believed that no decision in this court has yet gone the length of allowing interest in such a case."[f]

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[40] The revised Constitution of 1894, included the following provision against "riders," article 3, section 22:

" No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation."

If interest could not lawfully be collected in actions similar to this between individuals, there is no reason why it should be allowed in actions against the State. To allow this bill to become a law would not only be establishing a different principle of law for claimants against the State than obtains for claimants against individuals, but under the guise of general legislation would permit claimants who have had their day in court and whose claims have been finally adjudicated by the courts to set judicial opinions at defiance and obtain gratuities from the State treasury through legislative favoritism. Even were it deemed wise to establish for future cases such a principle of law as the bill embodies there would be no justification in applying it to cases which have been definitely determined. The interest involved in the one case which I have mentioned would now amount to over $75,000, and the enactment of this bill would mean this amount at least taken immediately from the treasury without a show of equitable claim."

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[f] See McMaster v. State of New York (1888), 108 N. Y. 542.

May 16.

Veto of Assembly bill entitled "An act to amend chapter two hundred and five of the Laws of eighteen hundred and eighty-three, entitled 'An act to abolish the office of Canal Appraiser and the State Board of Audit, and to establish a Board of Claims and define its powers and duties.'"

"The blind and sweeping phraseology of this measure makes it a dangerous bill to sign in its present shape, even though its particular purpose were recognized and approved. As presented the bill assumes a liability on the part of the State 'in any case in which a State tax, based upon the capital stock of a corporation, has been computed and paid upon a basis greater than the amount of the capital stock of such corporation employed within the State, or in case a corporation has paid a State tax under an unconstitutional law,' and the Board of Claims, with which the claim may be filed, is practically given no alternative in the matter except to audit the claim. Such phraseology merely seems to submit a question of liability to a judicial tribunal, while in reality it deprives that tribunal of any power except to grant an award. Moreover such blind and general phraseology might include a number of cases in which there is not a shadow of State liability either in law or in equity, and the determination of which in this summary manner might take hundreds of thousands of dollars from the State treasury.

So far as the language of the bill can be readily translated, it is intended to include what has been known for years in the Legislature as the claim of the Western Union Telegraph Company for a tax assessed upon its entire capital stock in the year 1881, and paid several years afterward in pursuance of a judgment of the courts. Deferring for a moment the possibility of some other and ulterior purpose in the measure, which, as will be seen, is of itself sufficient to condemn it, let us consider the bill first merely as a legislative recognition of the validity and equity of the Western Union claim, and in this connection it is important that the facts should be frankly stated.

In 1883 an action was begun by the State against the Western Union Telegraph Company to recover taxes assessed on the entire capital stock and due November 1, 1881. The company resisted on the ground that only such portion of the capital stock as was actually employed within the State should serve as the basis of taxation, and after the case had been stubbornly contested in the courts final judgment for $179,571.18 was entered on April 10, 1885, in pursuance of the decision of the Court of Appeals in a similar action against the Gold and Stock Telegraph Company,[g] which decision by prior stipulation between the parties was to control in the action against the Western Union Company.

While this action was pending and before its final determination another action had been begun against the Western Union Company for taxes for years subsequent to 1881.

So that after the decision of the Court of Appeals early in the year 1885, the Western Union Company was liable to the State for the amount of the judgment recovered for the tax on its entire capital stock for the year 1881, and was by virtue of this decision also liable for a similar tax on the entire capital stock for the following years 1882, 1883 and 1884. With this condition of affairs confronting it, and before payment of the judgment entered, the company through its counsel entered into a stipulation with the Attorney-General and the Comptroller, the main points of which were as follows:

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[g] People v. Gold & Stock Teleg. Co. (1885), 98 N. Y. 67.

1. That upon the enactment by the Legislature of a bill then pending, whereby thereafter only the capital employed within the State should form the basis for taxation, the company would within ten days pay the full amount of the judgment, with costs and interest.

2. That upon the enactment of such a bill, the company would pay in the same way and within the same time all claims that the State then had against it for taxes, penalty or interest, and all costs of suits then pending and not included in the action in which judgment had been rendered, but the taxes accruing after 1881 should be computed by the Comptroller upon such portion of the capital stock of the company as was employed within the State.

3. If no such law were passed then the company should not waive its right of appeal from the judgment of the Court of Appeals to the Supreme Court of the United States, but would carry the case to that tribunal.

The law passed in June, 1885, and is chapter 501 of the laws of that year. The company fulfilled its part of the stipulation after some delay and paid the judgment. The State fulfilled its part of the stipulation and relieved the company from paying on the full amount of its capital stock during the years subsequent to 1881.

Now the company by this bill seeks to have the stipulation set aside so far as the payment of the taxes for 1881 is concerned, and to get back from the State the amount of the judgment, less the proportion which represented taxation based solely on the amount of capital employed in the State. In behalf of this claim the company contends that in assessing the tax of 1881 upon the whole of its capital stock the State discriminated unjustly against this corporation, that the Western Union Company was practically the only corporation against which the law of 1881, as construed by the courts, had been enforced, and that the State having admitted the injustice of this construction by the enactment of chapter 501 of the Laws of 1885 ought in equity to release from its harsh operation the only corporation which had been obliged to suffer under it. If this statement is true, that the Western Union Telegraph Company is practically the only corporation against which the tax levied was based upon the entire capital stock, instead of on that part employed within the State, I am inclined to think that the company would have a claim in equity against the State; but inasmuch as the company itself voluntarily stipulated to pay, and did pay, the full amount of the tax assessed in 1881 as part compensation for the relief for the future furnished by the act of 1885, it has debarred itself from being able to ask with equity any redress from the State. As the trustee of the people's money the Legislature is hardly justified in paying back to a corporation taxes which, however unjust, were paid both in pursuance of judicial decisions and with the hope and expectation on the part of the corporation that their prompt payment would bring legislative relief for the future, as it actually did.

So much for that part of the bill's phraseology which seems to refer to the Western Union claim. Another part of the language quoted above assumes a liability on the part of the State in any case where 'a corporation has paid a State tax, under an unconstitutional law.' What class of cases is intended to be covered by this clause I am not able to say. Evidently it is a different class of cases from that which includes the Western Union claim. If the bill did not in another provision except taxes levied on real estate, it might be considered to reach all corporation taxes paid under chapter 734 of the Laws of 1872 which levied a general tax of 3½ mills and which was subsequently declared to be unconstitutional, or it may include as it stands any personal taxes paid by corporations under that unconstitutional act.* At any rate the language is too uncertain and sweeping and should condemn the bill, regardless of any other provisions."

May 16.

Veto of Assembly bill entitled "An act to enforce the collection of taxes levied in the county of Rockland."

"Chapter 711 of the Laws of 1893 makes this bill unnecessary."

May 16.

Veto of Senate bill entitled "An act to enforce the collection of taxes levied in the county of Clinton."

"Chapter 711 of the Laws of 1893 makes this bill unnecessary."

May 16.

Veto of Assembly bill entitled "An act to amend chapter five hundred and fifty-six of the Laws of eighteen hundred and ninety, entitled 'An act further to amend chapter four hundred and twenty-seven of the Laws of eighteen hundred and fifty-five, entitled An act in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such land for unpaid taxes.'"

"This bill attempts to amend and add to a law which is repealed by chapter 711 of the Laws of 1893."

May 17.

Veto of Assembly bill entitled "An act to amend the Penal Code."

"The provisions of this bill are all contained in chapter 692 of the Laws of this year."

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* See People ex rel. Hopkins v. Kings Co. (1873) 52 N. Y. 556.

May 17.

Veto of Assembly bill entitled "An act to amend section twenty-seven hundred and twenty-four of the Code of Civil Procedure, relative to judicial settlement of accounts."

"The enactment of this measure is not considered advisable owing to the approval of the general surrogates bill which now constitutes chapter 686 of the Laws of 1893."

May 17.

Veto of Assembly bill entitled "An act to amend section twenty-three hundred and forty-eight of the Code of Civil Procedure relating to the sale of real property of infants, lunatics and habitual drunkards."

"Senate bill No. 425, which has already received my approval, contains provisions very similar to those in this bill. The enactment of this measure therefore would be unnecessary and might promote confusion."

May 17.

Veto of Senate bill entitled "An act to amend sections nine hundred and ninety-two, nine hundred and ninety-five, nine hundred and ninety-six and nine hundred and ninety-seven of the Code of Civil Procedure, relating to exceptions and case on appeal."

"The apparent object of the amendments proposed is to allow an exception to be taken to any remark or comment of a presiding judge, during trial, and to provide for a review thereof on appeal.

If the amendments would accomplish no other change in the practice there would be no occasion for withholding Executive approval.

But the amendment proposed to section 997 radically and objectionably changes the practice affecting the making and settling of cases on appeal.

It permits a party appealing after a judge has settled and signed a case to prepare and present to the appellate court a supplemental case containing whatever he may see fit to allege to have been evidence, proceedings, rulings, decisions, remarks or comments with exceptions thereto.

It matters not that the matters contained therein do not appear in the stenographer's minutes, and that on a settlement it may be determined that there were no such proceedings, evidence and rulings, he may nevertheless present it to the appellate court.

It is apparent without considering other objections that such proposed practice is not only faulty in that it does not provide for a settlement of the proposed supplementary case, but it also opens the door for fraudulent practice by unscrupulous attorneys, who might not hesitate to insert alleged evidence, rulings and comments which were not before the court nor made in the hope that some advantage might result to them.''

May 17.

Veto of Assembly bill entitled "An act to release to William T. Frost all the right, title and interest of the people of the State of New York in and to certain real estate in the village of Millerton, Dutchess county, New York."

'' There is nothing on the face of this bill to show why its object cannot already be accomplished under the general escheat law.''

May 17.

Veto of Assembly bill entitled "An act to grant and release to Nicholas Munch all the title and interest of the people of the State of New York in and to certain real estate in the town of Tonawanda, county of Erie and State of New York, under the waters of Niagara river."

Assembly bill entitled "An act to release to Howard Winship all the right, title and interest of the people of the State of New York, in and to certain real estate in the city of Buffalo, county of Erie and State of New York."

"The objects sought to be attained by both of these bills can be accomplished without special legislation through the medium of the Commissioners of the Land Office."

May 17.

Veto of Assembly bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claims of Harrison Holdridge against the State for money paid into the State treasury for land bought of the Comptroller, the title to which proved defective."

"No information has been furnished me relative to the precise nature of this claim. Whether it is a proper case to be submitted to the Board of Claims I am unable to say, but the bill is defective in form in that it should have provided the right of appeal to either party. If the claim is large and the State should be defeated unjustly it should certainly have the right to appeal to the Court of Appeals."

May 17.

Veto of Senate bill entitled "An act authorizing the construction of an iron bridge over the Champlain canal at North street in the village of Mechanicville, in the county of Saratoga, and making an appropriation therefor."

"I am informed by the Superintendent of Public Works that the present bridge is sufficient for all purposes, and that the construction of a new one can well be deferred for a number of years."

May 17.

Veto of Assembly bill entitled "An act to amend sections one hundred and forty-three and seven hundred and fourteen of chapter four hundred and ten of the Laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' in relation to the Dock Board."

"No reason has been advanced why this bill should become a law. The local authorities, on the other hand, have given reasons why it should not become a law and I therefore withhold my approval."

May 17.

Veto of Assembly bill entitled "An act to authorize the justices of the Supreme Court of the eighth judicial district to appoint an additional stenographer for such district."

"This bill authorizes the appointment of an additional stenographer for the eighth judicial district at a cost to the State of twenty-five hundred dollars per year. It should have made provision for collecting this sum from the counties in said judicial district."

May 17.

Veto of Assembly bill entitled "An act to amend the town law."

"The enactment of this bill would require adjoining land owners to maintain 'necessary' division ditches on the same basis as division fences are now maintained. It does not seem to me that there is the same necessity for requiring the maintenance of division ditches that there is for the maintenance of division fences, and the operation of such a law would probably lead to unreasonable hardships."

May 17.

Veto of Assembly bill entitled "An act amending chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled 'An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices.'"

"In my judgment the amendment proposed by this measure would broaden too much the scope of the statute. No sufficient reason has been advanced why the amendment should be enacted and the absence of such a reason is the best reason for leaving the statute as it is."

May 17.

Veto of Assembly bill entitled "An act to promote agriculture."

"This is an act to promote the consumption of cheese. It compels the agents and wardens of the various State prisons and the officers in charge of all other penal institutions to furnish to each inmate of these institutions daily rations of American cheese. It also compels the Adjutant-General of the State to furnish daily to each member of the National Guard while on duty at the State camp at Peekskill, American cheese as part of the rations supplied by the State. No other reason has been advanced for my approval of the bill than that it would increase the market for American cheese. If I should give it my approval I could not well refuse to sign a similar bill next year for the producers of honey, or another for the benefit of potato raisers, or another for the advantage of bean growers and so on. Such legislation enacted in the interest of any particular class of workers and to increase the consumption of any State product by artificial means is a gross reflection on the manliness of the workers in that industry. Our natural resources and the intelligence of our farmers have placed the Empire State in the lead of all other States in the production of butter and cheese, and I have too much respect for our dairy farmers to think that they would approve any such ridiculous measure as this, which if enacted would justify almost any kind of similar legislation in the interest of particular industries or occupations."

May 17.

Veto of Senate bill entitled "An act to allow interest to claimants on awards of the Board of Claims in certain cases."

"The purpose of this bill is to secure from the State about $24,000 in interest on $17,000 of awards in what are known as the Oneida Lake Canal Claim cases. A similar bill was before me last year and was vetoed.

Immediately after the bill was vetoed, the counsel for the claimants and the representative of the Attorney-General, on May 25, 1892, in open court in the city of Syracuse, stipulated and agreed to settle the claims (in all numbering thirty-two) for the aggregate sum of $17,000, which represented a valuation of $172 per acre for all the land involved in the claims. This was $120 an acre more than the records and the undisputed testimony of a witness show an individual ever paid for a farm in that locality. It is fair to assume that in fixing the high price paid in the settlement some allowance was made for the costs of litigation and for interest.

The claimants having agreed to the terms of this settlement, it seems to me that whatever equity they may have in their case they are debarred by reason of that stipulation from seeking any further redress or compensation through legislation. In the hearing before me upon the bill the Attorney-General's representative offered to have the legal question of the claimant's title to interest taken before the Board of Claims and the Court of Appeals immediately, for a judicial construction, but this proposal was not accepted.

Under these circumstances, the claims having been finally settled by the agreement of all parties, it would be improper in my judgment to over-ride the stipulation and give by legislation what could not be obtained by litigation. To approve such a law would be establishing a precedent which would rob every stipulation between State officers and claimants of its sacred character, and would hold out the hope to every claimant that whatever was surrendered by stipulation could be supplied by the generosity of the Legislature."

May 18.

Veto of Assembly bill entitled "An act amending section three hundred and eighty-nine of the Penal Code, as amended by chapter six hundred and eighty-nine of the Laws of eighteen hundred and eighty-seven."

"I am unwilling to sign this bill in its present shape. It is altogether too sweeping in its provisions."

May 18.

Veto of Assembly bill entitled "An act to amend the county law."

"The provisions of this measure might lead to undesirable conflict of jurisdiction between boards of supervisors and boards of trustees of incorporated villages."

May 18.

Veto of Assembly bill entitled "An act to revise, amend and consolidate the several acts relating to the village of Norwich, and to repeal certain acts and parts of acts; and to provide a revised charter for said village."

"This bill is so defectively drawn that its approval is not deemed advisable in its present shape."

May 18.

Veto of Senate bill entitled "An act to authorize the Board of Claims to hear, audit and determine certain claims of the city of Rochester against the State."

"It has not been the policy of the State to construct at State expense new bridges over the canals at streets in cities or villages where the bridges were made necessary by the growing demands of those municipalities. In this particular case there was no complaint that the existing bridges were not firm and substantial but the improvement of certain streets required that they should be replaced by new bridges. The improvement was particularly a local one, and was carried out voluntarily by the city of Rochester for its own interest. Under these circumstances I do not see why the State should assume the liability or be placed in a position of being compelled to pay for a part or all of the expense of the new structures."

May 18.

Veto of items in Assembly bill, chap. 726 — the Supply bill.

"'For the betterments of the road leading from the State camp to Roa Hook dock and for the construction of a military road to connect the State camp with the river road near Highland's station, twenty thousand dollars or so much thereof as may be necessary.'

The thirty thousand dollars appropriated for improvements of State arsenals, armories and State camp is ample for all necessary repairs including the small sum required for betterments on the road leading from the State camp to Roa Hook. This appropriation is therefore unnecessary unless it is deemed advisable to use it for the benefit of private property, which I do not conceive to be the function of legislative appropriations.

'For the Superintendent of Public Instruction, for printing circulars and programmes relating to the observance of Arbor day, for distribution among the school districts of the State, and for other expenses relating to the observance of that day, in the year eighteen hundred and ninety-three, pursuant to the provisions of chapter one hundred and ninety-six of the Laws of eighteen hundred and eighty-eight, one thousand dollars, or so much thereof as may be necessary.'

The same item appears in the appropriation bill; it probably was inserted here by error.

'For the purchase of the historical painting by James Walker, representing the decisive blow for victory in the repulse of Longstreet's assault by the Union troops on the third day of the battle of Gettysburg, to be placed in some suitable room in the Capitol, thirty thousand dollars, or so much thereof as may be necessary, to be paid on the approval of the Governor, the Adjutant-General and the Chancellor of the University, who are hereby designated as a commission for that purpose, but not to be paid within one year from the passage of this act.'

Until the Capitol is completed I do not think it wise to embellish it with pictures.

For the New York State Experiment Station — 'for the erection of a permanent building on the State fair grounds for exhibits of the station, one thousand dollars.'

The State has appropriated twenty-five thousand dollars already for buildings on the State fair grounds, and this is as far in that direction as it is wise to go at present.

For the New York State Experiment Station — 'for the erection of buildings for the residence of the chief chemist and other employees, three thousand five hundred dollars.'

I am not convinced of the necessity of this appropriation at the present time.

'For a new boiler for the tug 'State of New York,' seven thousand dollars.'

The appropriation for the care, maintenance and repair of quarantine establishment is fifteen thousand dollars in excess of that of last year. This item can well be taken from the excess of appropriations for that purpose.

'For artesian wells on Swinburne and Hoffman islands, four thousand dollars.'

I am advised that these wells are impracticable.

'For painting interior and exterior of buildings on Hoffman and Swinburne islands, six thousand dollars.'

This may also be taken from the excess of appropriation for maintenance, care and repair of quarantine establishments.

'For extension and enlargement of Hoffman island, concreting the same and erection of new dock, two hundred and sixty thousand dollars; the work herein provided for to be let upon contracts therefor to the lowest responsible bidders, by the State Engineer and Surveyor, after suitable advertisement.'

The items allowed to stand in this bill include large appropriations for quarantine purposes. There is $35,000 for the care, maintenance and repair of the quarantine establishment; $33,000 for a three-story frame building and furnishings on Hoffman island; $15,000 for three new boilers and chimney, for heating apparatus, fire extinguishers on Swinburne island; $6,200 for ice-house, furnaces for superintendent's house, disinfecting chest, hoisting apparatus, for coal and baggage and repairs to crematory on Swinburne island; $10,000 for bath-house and registration room on Hoffman island; $7,000 for a two story dock shed for receiving baggage; $22,500 for erecting boilers and making alterations to disinfecting apparatus on Hoffman island;

$10,250 for filling up slip and extending dock on Hoffman island; $21,078.84 for bills and liabilities contracted by the health officer during the cholera epidemic last fall and as yet unpaid, $9,281.83 for reimbursing the health officer for the amount expended by him during that epidemic; making in all an aggregate appropriation of $169,310.67. Most of these are extraordinary appropriations made necessary in order to guard the State against admission of cholera. While not criticising the liberal spirit displayed by the Legislature in this emergency, it seems to me that any unnecessary expenditure ought to be carefully guarded against. The purpose sought to be accomplished by the appropriation in this particular item could not possibly be attained within one year or a year and a half, and may not be necessary at all for the reason that the United States government has completed its quarantine camp at Sandy Hook, and for the further reason that the State has acquired the Fire island property which may be used for quarantine purposes if necessity requires.

For the Western House of Refuge for Women — 'to be expended under the direction of the local board of managers, for farm buildings, consisting of a house, barn and pig-pen, eight thousand five hundred dollars.'

In view of premeditated extensions of the property of this institution the acquirement of which will probably include suitable barns and other buildings already standing, I do not deem it for the best interests of the institution to authorize this appropriation.

For the Western House of Refuge for Women — 'for assembly hall, school-rooms, wash-rooms and library-room, twenty-nine thousand dollars.'

This appropriation is not deemed expedient at the present time.

For the St. Lawrence State Hospital—'for erecting, finishing and furnishing a building for the accommodation of one hundred employees, sixty-nine thousand six hundred and sixty-seven dollars and fifty cents.'

On account of the delay in the completion of this institution caused by the recent fire the building of this proposed structure will be unnecessary during the present year.

For the St. Lawrence State Hospital—'for roads and necessary grading about the buildings, five thousand dollars.'

This is a light work which the patients in the institution might be put at without detriment to themselves and with the advantage of economy to the State.

For the Utica State Hospital—'for new tin roof for center building and repairs of gutters, forty-one hundred and forty-two dollars and fifty cents.'

This item seems to be excessive and for that reason is disapproved.

For the Utica State Hospital—'for printing press, with suitable equipment, nine hundred dollars.'

This appropriation is not deemed necessary at the present time.

For the Willard State Hospital—'for furniture and repairs on second floor of main building, five thousand dollars; for new floors, ceilings and other repairs in group number two, three thousand dollars.' * * * 'For addition to east barn for stabling cows, sixteen hundred dollars.'

The surplus hospital funds are sufficient to provide for these expenditures.

For the Hudson River State Hospital—'for completing house for night nurses, six thousand dollars.' * * *

'For completing reservoir for the State care cottages, ten thousand dollars.'

These improvements are not deemed necessary at the present time.

For the Binghamton State Hospital — 'for the erection and furnishing of an entertainment hall, twenty-five thousand dollars.' * * * 'For a steam road-roller and steam crusher, four thousand seven hundred dollars.'

These appropriations can well be dispensed with for the present year.

For the Binghamton State Hospital — 'the balance remaining unexpended of the sum of fifty thousand dollars, appropriated by chapter three hundred and thirty-three of the Laws of eighteen hundred and ninety-one, 'for the purpose of paying one-half the cost of constructing a sewer from the premises of the Binghamton State Hospital in the city of Binghamton to a point below the rock-bottom dam on the Susquehanna river,' being the sum of three thousand dollars, is hereby re-appropriated and may be expended in extending the sewer from the point of beginning to the manhole on the Hospital grounds and for the repair of the coal trestle.'

This amount has already been re-appropriated by a special act which I signed some time ago and a second re-appropriation is unnecessary.

For the Matteawan State Hospital for Insane Criminals — 'for horse barn, farm, wagon and tool storage house, eight thousand two hundred and eighty dollars and seventy-one cents.' * * * 'For building and cellar for storage for vegetables and fruit, four thousand two hundred and seven dollars and twenty-five cents; for plumbing and water supply for above-named buildings, three thousand eight hundred and eighty-six dollars.' * * * For crushed stone for road-ways, walks and drive-ways, five hundred dollars.'

These expenditures are not deemed expedient at the present time.

For the New York State Custodial Asylum for Feeble-Minded Women — 'for new cottages, seventeen thousand dollars.'

This appropriation can well be deferred until another time."

1894. JANUARY 2. LEGISLATURE, ONE HUNDRED AND SEVENTEENTH SESSION.

ROSWELL P. FLOWER, Governor.

ANNUAL MESSAGE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *January* 2, 1894.

TO THE LEGISLATURE.—For the first time in more than seventy-five years the Executive is able to announce to the Legislature that the State is entirely free from debt. The last vestige of debt was paid during the year just closed in the redemption of the outstanding Niagara Reservation indebtedness.

This result is not the only indication of the satisfactory condition of our State finances. Owing to the very thorough and successful administration of the indirect tax laws the receipts from these sources have been largely increased, and with a continuance of these favoring conditions the time is close at hand when, for the general purposes of government, we may dispense altogether with direct taxation.

The tax rate fixed by the last Legislature was made up of ninety-eight hundredths of a mill for school purposes, thirty-three and one-third hundredths of a mill for the support of the insane, thirty-seven and two-thirds hundredths of a mill for canals, and the remainder, eighty-nine hundredths of a mill, for general purposes. That tax rate was fixed upon the supposition that the actual surplus in the treasury to the credit of the general fund on September 30, 1893, would be $565,106 excluding the $500,000 reserve. As a matter of fact the surplus on September thirtieth, last, was $2,600,792. Assuming a continuance of recent administrative diligence, the Comptroller estimates that the actual surplus on September thirtieth next, or the end of the current fiscal year, will be $3,089,177. If in fixing the tax rate for the present year this amount of surplus on hand could have been assumed, the tax rate for this year would have been twenty-seven hundredths of a mill for general purposes instead of eighty-nine hundredths of a mill, or a total tax rate of one and ninety-six hundredths mills.

The present Legislature can, therefore, look forward to fixing an even lower tax rate. Not only will it have this large surplus at the end of the current fiscal year to reduce taxation with, but if the administration of the indirect tax laws continues to be thorough and vigorous, there will be greatly increased receipts from these sources. Moreover, there is occasion for no extraordinary appropriations such as were necessary during the past year — as, for instance, that for the purchase of Fire Island, that for the Buffalo strike, that for the threatened invasion of cholera, that for the World's Fair, and that to pay the balance of the State debt.

Taking these facts into consideration, it is safe to predict, that with reasonable economy at the present session, and without parsimony, the Legislature can make unnecessary any direct tax whatever, except for schools and the insane, and possibly the canals. This will be gratifying news to the taxpayers of the State, and it should be the aim of the Legislature to bring about such a result. Certainly the people have reason to rejoice that their finances have been managed so successfully in the past, and they will expect the same earnest regard for economy from their lawmakers and administrative officers in the future.

Let us not disappoint them.

FOREST PRESERVATION.

The year just ended has marked the beginning of a new era in the State in the matter of forest preservation. A new policy has been established, whose good results are already far beyond expectation. It gives me particular pleasure to announce this fact and to congratulate the Legislature that this State undertaking is at last on a businesslike and intelligent foundation.

A year ago I recommended the creation of a new Forest Commission and made two principal suggestions as to what the policy of the State should be in the matter of forest preservation. These were as follows:

1. That vast tracts of the Adirondack forests now owned by individuals or private associations and used mainly for purposes of recreation might be secured as part of the State Forest Preserve and forever guarded against denudation, by a contract between the owners and the State, whereby, in consideration of forest protection furnished by the State and exemption from State taxation, the owners and their grantees would refrain forever from removing the timber except under conditions imposed by the State. Such contracts, I urged, would obviate the necessity of expending millions of dollars for purchasing lands.

2. That without injury to the forest, but rather with benefit, the State could acquire considerable revenue by granting permission to fell trees above a certain diameter on State lands and to remove the timber.

These recommendations were promptly embodied in law, and the new Forest Commission is now able to report that 225,000 acres of Adirondack land have been offered to the State upon the terms of the proposed contract, and that standing spruce timber exceeding twelve inches in diameter has been sold on 17,468 acres of State land, from which it is expected that the first year's cutting will yield to the State a revenue of $52,400. These prompt results are exceedingly gratifying. It thus appears that the State Forest Preserve has been increased by probably a million dollars' worth of lands without any direct appropriation of public money, and that the first year of intelligent administration under the new law has insured to the State an annual revenue largely in excess of the entire cost of maintaining the forestry bureau. Every lover of the Adirondacks and every friend of forest preservation will rejoice at these results, but they will be particularly satisfactory to the taxpayers of the State. If from so small a portion of the Forest Preserve so considerable a revenue is received without injury to the forest, we can reasonably look forward to the time when the Forest Preserve will not only be the great conservator of our water-courses and the restorer of health, but will contribute a large part of the money required for the support of the State government.

All sales of stumpage were to the highest bidder. Applications for sales were numerous and covered more timber than the Forest Commission thought wise to sell at that time. They indicate that there will be no difficulty in obtaining an annual revenue which shall not only render the department self-sustaining, but will leave a large balance, which for the immediate future can be applied annually on the purchase of lands and the enlargement of the preserve.

The legislative policy declared two years ago of selling scattered and detached tracts of State forest land lying outside the limits of the Adirondack park has been pursued during the year, but not many sales have been made, owing to the depression in financial circles.

There has been a notable absence of forest fires, although neighboring States have suffered considerably in this respect. This absence is in large part attributable to the efficiency of the town fire-wardens and to the efforts of the Forest Commission through its officers.

The threatened loss to the State of hundreds of thousands of acres of forest land by cancellations of tax sales was happily averted by legislation last year passed in response to my earnest solicitation. The law governing these cancellations still needs strengthening in some respects and your attention is respectfully directed to the subject.[1]

MUNICIPAL CONSOLIDATION.

There seems to be considerable public sentiment in favor of a consolidation under one municipal government of the cities of New York and Brooklyn and contiguous territory. Many advantages of such a consolidation to the people of the localities have been urged, and a commission which was established by direction of the Legislature for the purpose of inquiring into the matter has declared in favor of consolidation. Of course no legislative measure providing for consolidation should be enacted unless it is clearly the wish of the people in the cities and towns affected that consolidation should take place. The only sure method of determining that sentiment is by submitting the question to a popular vote. This course I recommend to the Legislature.[2]

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[1] See Constitution of 1894, article 7, section 7, prohibiting sales of land or timber in the forest preserve.

[2] By chapter 64, the question of consolidating New York and specified municipalities, was submitted to the people at the November election in 1894. The territory embraced in the proposed consolidation included the city of New York, Long Island City, the county of Kings, the county of Richmond, the towns of Westchester, Flushing, Newtown and Jamaica, and that portion of the towns of Eastchester and Pelham which lies southerly of a straight line drawn from the point where the northerly line of the city of New York meets the center line of the Bronx river, to the middle of the channel between

THE STATE CANALS.

The last season of canal navigation was an unusually prosperous one. The total tonnage carried on all the canals was 4,331,963, which is an increase of 49,968 tons over the traffic of the preceding year. The increase on the Erie canal alone was 256,894 tons, but this was largely offset by a falling off of 172,174 tons of freight carried on the Champlain canal, occasioned by the diminishing shipments of iron ore, lumber and coal. The total tonnage of the canals was made up as follows:

	Tons.
Products of the forest	1,030,604
Products of agriculture	1,544,146
Manufactures	66,892
Merchandise	216,013
Other articles	1,474,308
Total	4,331,963

The amount of freight carried by the various canals was as follows:

	Tons.
Erie canal	3,235,726
Champlain canal	848,965
Oswego canal	92,634
Black River canal	115,877
Cayuga and Seneca canal	38,761

During the season of canal navigation the whole number of bushels of grain received at the port of New York was 108,962,706, of which the canals carried 43,076,900, or

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Hunters and Glen Islands in Long Island Sound, and that part of the town of Hempstead which is westerly of a straight line drawn from the southeasterly point of the town of Flushing through the middle of the channel between Rockaway Beach and Shelter Island to the Atlantic Ocean." The proposition for consolidation was approved by the people.

slightly over 39½ per cent. In 1892, while the total receipts at New York during the canal season were greater than those for 1893, the proportion carried by the canals was only 23 per cent., or 16½ per cent. less. The increase in favor of the season just closed was because of higher railroad freight rates, which turned more traffic to the canals and made the season a profitable one to boat-owners.

The cost of superintendence, ordinary repairs and maintenance of the canals during the last fiscal year was $726,087.47. This is the lowest expenditure for these purposes in seven years. In addition the last Legislature appropriated $780,000 for improvements. These are now under way and will increase the efficiency of the canals. They consist in continuing the policy of lock-lengthening, under what is known as the Seymour plan, deepening the Champlain canal, bottoming out the Erie canal, improving the Erie basin and Black Rock harbor, dredging the Albany basin, improving the Erie canal in the city of Buffalo, repairing the upper and lower Mohawk aqueducts and the Schoharie Creek aqueduct, rebuilding the State dam at Cohoes, improving certain feeders and reservoirs, building canal walls and bridges, etc. More appropriations of this kind will be required this year, and the detailed information regarding them will be submitted to the Legislature by the proper officers.[3]

SUGGESTIONS FOR PROMOTING THE USEFULNESS OF THE CANALS.

I have alluded in other official papers to the necessity for maintaining the efficiency of the canal system and extending its usefulness wherever practicable. The Erie canal was built three-quarters of a century ago to divert the flood of agricultural wealth of the west from outlets to the sea by way of Canada or the Mississippi river. That policy poured the treasures of the new country at the feet of New York and built up her great cities. As much now as ever before in her history does the State of New York need the maintenance of substantial waterways. No narrow or shortsighted policy should permit this tide of commerce between west and east to be turned away from New York. To-day Canada aspires to contest with us for the traffic of the Great Lakes. She has already spent upwards of $60,000,000 in improving and building canals and in deepening channels. She is constructing a new canal through her territory at the Sault Ste. Marie, and is making a channel fourteen feet deep all the way from Lake Superior through the Welland canal and St. Lawrence river to the sea. When that is completed a two-thousand-ton boat can go from Duluth to Montreal, Halifax or Liverpool. To meet this competition the United States government is making a twenty-foot channel through the lakes to Buffalo. When that is completed a three-thousand-ton boat can come as far as Buffalo, and from that point freight must find a cheap and easy outlet to the seaboard. Here is where New York's interest lies, and where the necessity of utilizing the advantage of the Erie canal is vital.

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[3] **Several acts were passed at this session making appropriations for canal improvement.**

Think for a moment of the vast wealth centered now in the territory surrounding the Great Lakes. Here, in these States, is already nearly half the population of the country. There has been no parallel in history to the rapid development of this region. Its industrial and commercial possibilities are almost unlimited. The great wheat fields of the world are there, great areas of timbered land, immense deposits of iron, copper and the precious metals. The cities of this region must eventually be the greatest centers of wealth and population in the country, and the natural pathway of their products and those of the vast country beyond them must ever be through the Great Lakes to the east. Railroads alone can not carry all the product of this region; development would be checked if dependence was alone upon them. But railways and waterways together, not antagonistic, but mutually essential, will, year by year, carry increasing burdens from these treasuries of wealth to the seaboard, and take back the products which our industries or commerce supply in return. The figures of the lake commerce are already startling. In 1889 the tonnage is said to have been 10,000,000 greater than the combined entries and clearances of all the seaports of the United States, and 3,000,000 greater than the combined entries and clearances of Liverpool and London. Statesmanship would be short-sighted which would fail to take consideration of these facts in outlining or establishing a policy of State development. How to attract to and through our own State this enormous traffic should be the subject of careful solicitude.

To establish a ship-canal is, in the opinion of most persons who have given the suggestion careful consideration, both impracticable and unwise. The most practical suggestions are contained in plans for increasing the tonnage of the Erie canal.

One of these plans has been in process of execution during the last seven years. It consists in lengthening the locks so as to permit two boats to pass through at the same time, thereby saving expense and time of transportation. Under this policy all but four of the locks which it is feasible to lengthen, in the opinion of the Superintendent of Public Works, have been so lengthened. The cost has been about $3,000,000 thus far. The results have been disappointing, for the tonnage of the canals has diminished instead of increasing. The lengthening of the remaining four locks will not change the situation materially, for it requires on the average about three minutes to lock a boat, so that the time saved between Buffalo and Albany, by lengthening the remaining locks, would be less than half-an-hour.

Another plan proposed in connection with the lengthening of the locks is the deepening of the canal and the raising of its banks, so as to enable boats of larger capacity to be used. The deepening of the canal would necessitate the rebuilding of all its structures — an enormously expensive undertaking; the raising of the banks, however, would be quite feasible as a means of securing greater depth of water. Something in this direction should undoubtedly be done when the present capacity of the canal proves insufficient, and at present provision should be made for the prompt removal of all accumulations in the bottom of the canal, so that its full depth may be enjoyed.[4]

It has seemed to me, however, that the most practical plan for immediately increasing the tonnage of the Erie canal is that which would supply a speedier and more economical motive power. Mules and horses now propel canal boats at a rate of about two miles an hour, while steam sends them along at the rate of about three miles. The banks of the canal will stand a speed of about four miles an hour. It seemed to me, after personal observation of present methods, that electricity might be applied as a motive power with a considerable saving in cost and a considerable increase in speed. Experiments in this direction were authorized by the last Legislature upon my recommendation, and seem to have demonstrated clearly the feasibility of using electricity as a motive power on the canals. The only question still to be determined is that of cost, and the estimates are quite favorable to a considerable reduction from the cost of propulsion by steam. Just how much of a reduction could be obtained it is of course impossible to say definitely, but very conservative estimates make the saving in cost of transportation at least twenty-five per cent., and the increase in speed at least thirty per cent. The advantage of electricity over mule or horse power would be much greater. If these results could be attained the benefit to the canal would be immediately greater than the benefit which would flow from all the proposed enlargements, and need not cost the State a penny. Boatmen could make many more trips in a season, fewer employees would be needed on each boat, no money would be required for horses and mules, the large space occupied by steam boiler and engine would be saved for freight, and danger from fire or explosion would be avoided. At the same time the increased tonnage and business of the canals would provide more employment and more remunerative occupation for boatmen. Other advantages readily suggest themselves. It should be clearly understood moreover that the adoption of electricity as a motive power does not mean the abandonment of horse, mule or steam power if boat owners prefer to have their boats propelled by these powers. The idea is that whether the State furnishes the electric power from its own plant, or whether individuals or corporations furnish it under contract, there will be no compulsion to use it, but the endeavor will be to supply it at such a low cost to boatmen that they will find it advantageous to apply it to their boats in the interest of economy.

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[4] The Constitutional Convention of 1894, added to the Constitution a new section, article 7, section 10, providing for canal improvement. The Legislature of 1895 passed an act, chapter 79, authorizing the expenditure of $9,000,000 for canal improvement, including the deepening of the Erie and Oswego canals to nine feet and the Champlain canal to seven feet. This law was submitted to the people at the general election in November, 1895, and approved, but the amount appropriated was inadequate for the proposed improvement.

Another act was passed in 1903, chapter 147, authorizing an expenditure of $101,000,000 for canal improvement. The canals were to be deepened to a uniform depth of twelve feet, with a general width of 75 feet at the bottom. This act was also approved by the people.

In 1905 the Constitution was amended, article 7, section 4, extending the debt period from eighteen years to fifty years, and a new section was added, 11, authorizing the payment of debts from the proceeds of any moneys in the treasury and providing for a sinking fund.

This plan need not interfere, either, with any proper enlargement or deepening of the canal. Indeed, if the plan is found to operate satisfactorily, the next logical and necessary step would probably be to so improve the canal as to enable the use of larger boats. But for the present I am quite convinced that the proper course is to give electric propulsion a fair trial, and if it accomplishes what is claimed for it, a new era of activity and prosperity should begin for our canals. Grain has been carried during the last season from Chicago to Buffalo for as low as one cent a bushel; boatmen can carry it profitably at two cents a bushel. If by cheaper and quicker propulsion the cost from Buffalo to New York by way of the Erie canal can be reduced to three cents a bushel, as is reasonable to suppose, there is no other carrying route that can successfully compete with it, and a continuance of New York's supremacy is assured. Moreover, the harnessing of the tremendous water torrent of Niagara to the wheels of industry will furnish the cities of Buffalo and Rochester and all Western New York with the cheapest power for manufacturing in the United States. We may look forward to the time when the great flour mills of the world will be located there, for the cheapness of power would more than compensate for the cost of transportation of grain from the fields of the north-west. So with other manufactories. Then, more than ever, will be needed cheap transportation through the State. To-day the Erie canal does not carry one-half its capacity. Reduce the cost of transportation and increase the speed, and the tonnage will increase, and when the tonnage increases then will be the proper time to consider seriously expensive schemes of enlargement.

The essential point in arranging for the application of electric propulsion on the canals is that the power should be furnished at the lowest possible cost, and any construction of State works for this purpose or any contract with individuals or corporations for supplying power to the boatmen should be hedged about with abundant safeguards for the protection of the public interests.[5]

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[5] The general canal law passed at this session, 1894, chapter 338, section 38, applied with additions the provisions relative to electrical power on the canals contained in the act of 1893, chapter 499.

ROAD IMPROVEMENT.

The road legislation enacted by the last Legislature has served a useful purpose in stimulating interest in the subject of good roads. It provided in substance for the so-called optional county-road system, and agitation for the adoption of its provisions by boards of supervisors has gone on in many counties and is likely to be more effective as supervisors are chosen for two years instead of one, as formerly. A radical change cannot be expected to be effected in a short time, but the local discussion which the proposed adoption of the county-road system has called out will in time bear good fruit. It has already disclosed several minor defects in the law relative to the operation of the "money" system in towns located in counties in which the county system shall be adopted. These will be brought to your attention and should be speedily corrected.[6]

CHANGES IN THE ELECTION LAWS.

Repeated experience with the recently enacted ballot law has suggested several desirable changes to promote simplicity in voting. The most important change needed is one to avoid the multiplicity of ballots placed in the hands of the voter. The present system leads to confusion, mistakes and annoyance. I recommend the adoption of a so-called "blanket" ballot, with the names upon it so arranged and printed that the elector can easily vote for the candidates of his choice.[7]

Laws governing the selection of election inspectors and regulating their duties need strengthening in the interest of honest elections. These statutes are not only weak in some important respects, but they are not uniform throughout the State, so far at least as regards the selection of the inspectors. I suggest the propriety of a law which shall apply uniformly throughout the State and shall, if deemed best, provide for a non-partisan board of election inspectors in each election district.[8]

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[6] As to good roads see 1890, *ante*, vol. 8, p. 1041.

[7] A blanket ballot was provided for in 1895 by chapter 810, amending section 81 of the Election Law of 1892, chapter 680. This provision was continued in the election law of 1896, chapter 909. See special message of April 24, 1894.

I renew my recommendation of last year in favor of requiring personal registration all over the State as a means of determining those who are entitled to vote. The necessity for such a law has been recently demonstrated in a striking way in the alleged election outrages in the town of Gravesend. The registration there was said to be largely in excess of the number of legal voters, and the charge was that fraudulent votes were to be, or were, cast in large numbers by persons assuming the names falsely on the registry. This would be a scandalous condition of affairs in any community, yet there is ample evidence that it occasionally prevails, and it is always possible under the law as it stands to-day in rural districts. There is no reason why the safeguards which the law throws around the determination of voters in cities should not be extended to the voters of the villages and towns of the State. The requirement of personal annual registration as a necessary preliminary to the exercise of suffrage has been a most effective influence in diminishing fraudulent voting in cities and the people of towns and villages should no longer be excluded from protection by its advantages.[9]

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[8] Chapter 348, passed April 24, provided for bi-partisan election boards in all the towns and cities except Brooklyn, which city already had bi-partisan election boards.

The Constitution of 1894, article 2, section 6, permanently established the system of bi-partisan election boards, by requiring equal representation in such boards from each of the two principal political parties.

[9] The Constitution of 1894, article 2, section 4, required personal registration in cities and in villages containing a population of 5,000, but voters not residing in such cities or villages were not required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

I would also suggest the propriety of requiring the publication of the registry lists in cities prior to the election. This would be an additional precaution against fraudulent voting. Such a requirement has for years existed in New York city and has been proved a wise safeguard. Although expensive, it would permit every citizen to inspect the registry lists before election and easily verify their accuracy.

I renew the recommendations contained in my last annual message as to the use of money in elections. I said in that official communication:*

"A defect in what is known as our Corrupt Practices Act is that political committees are not required to file certified statements of their receipts and expenditures. While the statute compels this duty on the part of candidates, it leaves political committees and agents free to conceal both the source of their revenues and the purposes of their expenditures. The extension of the provisions of the law to political agents and committees would make the financial transactions of such committees a matter of public record as they should be, and would tend to discourage the contribution of large amounts of money by individuals. Such a law is now in force in Massachusetts, having been enacted recently. It should be drawn with rigid provisions which would permit no evasion.

"Another proposed remedy for the evil of corruption is such legislation as will make proof of bribery on the part of candidates or their political agents or committees sufficient cause for forfeiture of office. Great Britain has such a law. Our laws already disfranchise those who are convicted of bribing voters, but they practically protect the beneficiary of this crime by leaving him in possession of the office unless it can be proved that the bribed votes which he received more than equalled the amount of his plurality.

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*_Ante_ p. 197.

Candidates and committees would hesitate to expend money corruptly if proof of the act would be a disqualification for office. Properly administered such a law might be a complete check on corruption."

These suggestions are again submitted for your consideration.[10]

AMENDMENTS TO THE CIVIL SERVICE LAW.

An endeavor has been made to carry out the full spirit and letter of the Civil Service Law during the year, and with good results. As the law stands to-day, however, it would seem to be incapable of enforcement, should appointments be made in violation of its provisions. To guard against such a failure, I suggest amendments which will (1) compel the Civil Service Commission to certify to the State Comptroller all appointments made in pursuance of law (2) prohibit the Comptroller from paying salaries to any persons whose appointment is not so certified to; and (3) give to all lawfully appointed persons opportunity to compel the Civil Service Commission by *mandamus* proceedings to certify their appointment to the Comptroller in case of failure or refusal on the part of the Commission to thus certify. These amendments would considerably assist the thorough administration of the law.[11]

STATE CARE OF THE INSANE.

When in 1890 the bill was passed establishing the policy of State care of the dependent insane, its enactment came only after a thorough discussion throughout the State and in the Legislature. On the one side were the humanitarians, and on the other were the men with selfish interests and those who believed that so great an undertaking by the State was unwise in principle and would be found extravagant in practice. The portrayal of the horrors of the county system awakened public sympathy, however, and the humanitarians won. Now, it is safe to say, few citizens would wish a return to the old county system.

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[10] As to statements by political committees, see the act of 1906, chapter 502, and the act of 1907, chap. 596.

[11] The certification of civil service appointments was required by chapter 354, passed April 24, 1894. The same act prohibited the comptroller from paying salaries without such certification, and authorized appointees to take proceedings by mandamus to compel a certification. These provisions were continued in the revised civil service law of 1899, chapter 370.

One of the inevitable results of the new system of State care was that the central State board should be endowed with reasonably broad powers of supervision and regulation. Even long before the State Care Act of 1890 was passed, and when each of the State hospitals was practically independent, a Senate committee, in 1882, composed of Senators William B. Woodin, Charles A. Fowler, and Edmund L. Pitts, who investigated the condition of the insane asylums, reported that we should have "a central supervisory lunacy commission." "In England," said their report, "this commission has existed between thirty and forty years, and it has in that time wrought many changes and instituted many valuable reforms in spite of superintendents and officers of asylums, who at first were jealous of any interference." And again said this report: "It is further suggested that the powers of such commission should be broad enough to enable them to look after not only the welfare of the inmates of asylums, but also that of the taxpayers in the matter of expenditure, both in the erection of buildings and maintenance of the institutions. The committee are earnest in their recommendation that some new and ample supervisory board or authority be created which shall have very full powers in the premises." But even before this, Comptroller Olcott in 1879, after an investigation into asylum management, recommended that a central board should pass upon all appropriations and expenditures for asylum purposes.

It was inevitable also that the creation of such a central board with broad powers should lead to more or less conflict between it and the local boards of managers which were established for each hospital, and whose official life, in most cases, considerably ante-dated that of the State Commission. That conflict was quite marked and spirited immediately after the adoption of the State Care Act, but subsequently subsided after the courts had upheld the powers assumed by the commission. It has arisen again, however, within the last two months, and there seems to exist to-day anything but a cordial feeling of co-operation between the State Commission in Lunacy and the local boards of hospital managers.

The immediate source of trouble seems to be in the matter of expenditure of State money. The State Care Act of 1890 had directed that as soon as all the insane in the county poor-houses had been transferred to the State hospitals, the State should thereafter assume the whole care and maintenance of the dependent insane. (Previously the State had built the hospitals, but the counties or individuals had paid for the maintenance of their insane in the hospitals, or in county institutions.) This transfer was finally effected in September last, and on October first the State formally assumed the undertaking for which it had been for years preparing.

On that date the State owned eight great hospitals, costing $10,426,127, and containing about 9,000 insane patients. The Legislature appropriated $1,343,000 for the maintenance of these 9,000 patients during the fiscal year beginning October first last. This amount, it was thought, would be sufficient, together with the receipts from private patients and other sources. It was the first appropriation under the State Care Act for the maintenance of the dependent insane. Unless the State's declared policy should be changed it was the beginning of annual appropriations of not less than $1,300,000 of public money. Decent regard for economy and proper business principles required that this vast amount of money should be expended honestly and economically, and that every dollar expended should be properly accounted for. The Legislature and the Executive sought to incorporate safeguards of this kind in the law making the appropriation. It was a question of allowing nine separate boards of local managers to have complete charge of the expenditures for their respective institutions and to draw on the treasury at pleasure for the necessary money, or of reposing the power of preparing estimates and auditing accounts in the central board — the State Commission in Lunacy, where there could be general comparison and supervision of expenditures. It was decided that the best interests of the people lay in a system of State audit by the Commission in Lunacy, and provision for this was made in the law. It followed in general outline the recommendation of Comptroller Olcott and the Senate committee above alluded to, although not going quite so far, and was analogous to the system which has been in vogue in the prison department for many years and has there yielded excellent results.

The system as carried out provides that the officers of each State hospital shall submit to the State Commission in Lunacy monthly itemized estimates prepared in minute detail of all the expenses of the institution. These estimates are revised by the commission as to quantities and prices and are then forwarded to the Comptroller, who thereupon remits to the treasurer of the hospital the amount of the estimates as revised, less the amount of funds which the hospital has on hand. Each month's expenditures are required to be reported in minute detail by the hospital treasurer, and are examined and compared with the estimates for that month to ascertain if the expenditures correspond in all respects with the estimates as allowed. An allowance of not exceeding one thousand dollars is permitted by law, in the discretion of the State Commission, for unforeseen expenses. No supplies are authorized to be purchased by the State Commission, nor are directions required to be given as to where supplies should be bought — these are matters left under the law entirely with the local managers or superintendents, and a proper administration of the law would permit no interference in this direction except by refusal to accept estimates which are in excess of fair market prices, or supplies which are in excess of fair market prices, or supplies which are below fair standard quality.

This system of audit is business-like in principle and ought to work well. Some such safeguard is due to the people of the State whose money is expended. The people of New York are rich and generous, but they do not want the money which they contribute for the support of government misspent or stolen. They have a right to know where every dollar goes and whether it goes as far as it can be made to go. That is not parsimony; it is ordinary precaution for honesty and economy.

Naturally a financial system which takes away from the complete powers formerly held by the boards of local managers is not popular in those circles, and possible mistakes in the first administration of the law have naturally aggravated this feeling and excited hostility to the new system. The local managers are men of standing in their communities, many of them well known throughout the State, and the interests of the State may well be considered quite as safe in their hands as in those of a central commission at Albany. But the trouble with the old system has been that the local managers have been inclined to leave responsibilities of this sort to the officers of the institutions, and by reason of this neglect grave abuses and scandals have occurred. There is no guarantee that this might not occur in the future. Where responsibility is diffused the risk of neglect or maladministration is greater. Moreover the whole State is now directly interested as it never was under the old system in the economical management of each institution, and extravagances now would be the speedy concern of all citizens, and should, therefore, be the subject of prompt correction. It was largely the recent disclosure of extravagant methods of management that emphasized the necessity of a careful system of State audit.

I have endeavored by bringing local managers together with the State Commissioners to ascertain where the causes for grievances lay and to bring about their correction so far as the administration of the law was at fault. These conferences have disproven many published allegations and I am confident that as soon as the new system is fully understood it will prove satisfactory to the people. At the same time the existence of the local boards of managers will serve a useful purpose in checking any arbitrary tendencies on the part of the State Commission. Certainly in carrying on so noble a State charity there should be no unnecessary friction among public officers. Neither personal nor political considerations should find any place in the discharge of this official obligation. For this reason we should not only establish sufficient safeguards around the administration of the law, but encourage harmonious enforcement of its provisions by administrative officers.

Whatever changes can be wisely made to promote the efficiency of the law and facilitate its working will receive my hearty approval, but the reasonable guarantees of economy and honesty in administration must remain features of the law if we are to be true to public interests. To weaken or break down those might be eventually to imperil the whole system of State care of the insane. No other feature of State government invites greater opportunities for extravagance or maladministration. A serious responsibility rests on us to make sure that by no prejudicial action of ours will these be easily permitted.

NEW YORK AND THE WORLD'S FAIR.

The representation of the State at the World's Fair was befitting its dignity and supremacy. The New York exhibits were exceedingly creditable, and as a whole surpassed in variety and excellence those of any other State.

It is gratifying to announce upon the authority of the State Commissioners that a considerable balance will remain to the credit of both boards after all bills outstanding are paid. Inasmuch as the State exhibits at the Fair are well worth preserving, I suggest that this unexpected balance, or so much of it as may be necessary, be appropriated for fitting up the now vacant and unfinished rooms in the top of the Capitol as a museum for these exhibits. There they can be preserved and seen by thousands of visitors to the Capitol who did not have the opportunity of seeing them in Chicago.

INTERNATIONAL EXPOSITIONS.

My attention has been officially called to the California Midwinter International Exposition which is to be held in San Francisco from January first to June thirtieth, of the present year, and I have been requested to name a day during the exposition season which may be set apart to be celebrated as the special day of New York State. I have declined to assume this responsibility until it was determined whether the Legislature would give the exposition official recognition, and the matter is respectfully referred to your consideration.

My attention has also been officially called to the Antwerp International Exposition, which is to be held at Antwerp between May and November this year. I am informed that the United States are to have a separate exhibition building in which spaces will be reserved for individual State exhibits. The question is respectfully submitted whether such representation on behalf of this State shall be authorized.

AGRICULTURAL INTERESTS.

Pursuant to the suggestion contained in my annual message the Legislature last year established a State Department of Agriculture. The wisdom of that action has been already vindicated by the success which met the department's efforts in connection with the dairy exhibits of New York at the World's Fair in Chicago. Without some central executive head to stimulate interest and make arrangements for the transportation and proper exhibit of butter and cheese from various parts of the State, from month to month, the State of New York would not have taken the principal awards each month as she did with one or two exceptions during the season of the Fair. In 1876, at the Centennial Exposition, Canada won the awards of excellence for her dairy products, and ever since Canadian farmers have benefited by that advertisement and advantage at the expense of New York farmers. Now, however, it has been demonstrated in international competition that New York butter and cheese lead all the rest, and this demonstration should mean largely increased sales and higher prices for our dairy farmers.

What the State has done for the intelligent promotion of dairy farming can be done for other kinds of agriculture, now that we have a special State department, charged with powers of supervision and direction over the various State agencies for promoting agriculture. As I pointed out a year ago, while the State had adopted the general policy of encouraging agriculture its efforts were being wasted by useless appropriations or frittered away for lack of intelligent and comprehensive direction. This evil the establishment of a department of agriculture was intended to correct. Its powers are as yet quite limited, and I recommend such extension of them as will enable it to be of genuine assistance in promoting all proper agricultural interests. The competition at the World's Fair showed that

New York stands at the head of the States in the variety and excellence of her agricultural products, and our earnest endeavor should be to see this lead maintained and the occupation of agriculture made a remunerative and attractive pursuit, as it always has been one of the most honorable.

In this connection the agencies for the promotion of intelligent farming and scientific agriculture at Cornell University and at the Geneva State Experiment Station, under the supervision of the Commissioner of Agriculture, should be fostered by ample appropriations and wise legislation. The work being done at these institutions is of great value to farmers. The dairy husbandry building at Cornell University, for which provision was made at the last legislative session, is approaching completion. In order to diffuse as widely as possible the advantages of intelligent information in agricultural methods, this institution offers free to all persons of this State three courses of instruction — a four years' course, a two years' course and a three months' course, all specially designed to meet the practical needs of modern agriculture.

The State of New York has expended a great deal of money to protect the dairy interest from competition with spurious butter. Our laws on the subject are very strong, absolutely prohibiting the manufacture or sale of oleomargarine or any substitute colored in semblance or imitation of butter within the State. Notwithstanding these stringent laws, persons have been engaged more persistently during the last six months than ever before in flooding the State with their products, openly defying the law and claiming the right to sell their goods under the Interstate Commerce decisions in original and unbroken packages. While this might be conceded if oleomargarine were sold as a product pure and simple, the question presents a different phase in the form in which oleomargarine is placed upon the market. As made, oleomargarine is a colorless substance of about the appearance of lard. As sold, it is colored in semblance and imitation of dairy butter. In the case of People v. Arensberg, reported in 105 New York Reports, page 123, the Court of Appeals decided that the "law which prohibits the manufacture or sale of any product not made from unadulterated milk or cream, but made in imitation or semblance of dairy butter is constitutional, and producers of butter from animal fats or oils, although the product may be nutritious and suitable for food and the manufacture and sale thereof may not be prohibited, have no constitutional right to resort to devices for the purpose of making their product resemble dairy butter, and the Legislature has power to enact such laws as it may deem necessary to prevent the simulated article being put upon the market in such form or manner as to be calculated to deceive." It has been held in other States, notably in Pennsylvania and New Jersey, that the statutes prohibiting the sale of such products were clearly within the police powers of the State, in protecting its citizens from fraud, and also in the interests of the public health. It will be some time before this question can properly be passed upon by the Supreme Court of the United States, and in the meantime I suggest that the Legislature petition Congress to provide by statute that all food products coming from one State into another shall, immediately upon their entry into the State, become subject to the State laws. This was done after the Kansas decisions in reference to liquor, resulting in the passage of what is known as the Wilson Act, which simply covers the sale of liquors. It should be extended to all food products. Such action will meet with the approbation of the dairy interests of the State.[12]

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[12] The following concurrent resolution was adopted by the Assembly on the 1st of February, and by the Senate on the 5th:

"Whereas, A very large portion of the people of the State of New York are engaged in agricultural pursuits and many of their number in dairying, and

Whereas, The State has during the past years spent thousands of dollars annually in prohibiting the traffic in imitation dairy products within the State, and

Among the most beneficent effects of the Dairy Law has been a provision which was adopted in 1888, whereby the Dairy Commissioner was authorized to employ not to exceed five expert butter and cheese makers whose duty it should be, under his direction, to examine butter and cheese

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Whereas, Notwithstanding that the validity of our very stringent and just laws upon this subject, affecting the health of all our people and the property of so large a producing class, are involved in a determination of the right to sell oleomargarine and butterine within this State in defiance of our laws aforesaid, and

Whereas, It is a notorious fact that several large corporations, incorporated outside of the laws of our State are openly engaged in defying our laws in attempting to flood the market with their products, which if allowed to prevail will be to the lasting injury of all the people engaged in dairy pursuits in this State and will entail an annual loss of thousands of dollars upon our people, and

Whereas, These goods, as made and sold are not sold upon their merits, but are sold colored in fraudulent semblance and imitation of the finest dairy butter and believed to contain substances deleterious to the public health, and

Whereas, An act was on the third day of January, 1894, offered in the Senate of the United States by the Hon. David B. Hill, aimed at the suppression of this traffic within the State, providing that oleomargarine and imitation dairy products shall be subject immediately upon their entry into the State to the laws of the State passed as police regulations, which act is now pending before the Senate and is as follows:

'BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

'That all articles, known as oleomargarine, butterine, imitation butter or imitation cheese or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream transported into any State or territory or remaining therein for use, consumption, sale or storage therein, shall, upon arrival in such State or territory, be subject to the operation and effect of the laws of such State or territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such articles or substances had been produced in such State or territory and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.'

It is therefore resolved, That we respectfully petition the Senate and House of Representatives of the United States to pass the aforesaid act, and we most respectfully urge and request the representatives of the State of New York in both branches of the National Congress to use every means within their power to procure the passage of this legislation, which we believe to be vitally necessary for the interests of the greatest producing class of the State of New York."

The substance of the foregoing bill introduced by Senator Hill was included in an act of Congress approved May 9, 1902, which among other things provided that all oleomargarine and other imitations of dairy products should be subject "to the laws of any state or territory or the District of Columbia into which they are transported."

factories and to attend agricultural fairs, institutes and meetings within the State, for the purpose of imparting information as to the best and most approved methods of making butter and cheese. This provision was substantially re-enacted in section 4 of the Agricultural Law. The system of expert instruction has, for a long time, been in vogue in Canada, and has resulted in largely raising the standard of their products, and wherever these instructors have worked in the State of New York the same results have followed. But the Commissioner of Agriculture is limited by law to five in the number that he can appoint to this service. As there are some forty-eight counties in the State in which butter and cheese are produced, containing 255 butter factories and 1,155 cheese factories, it will be seen at once that it is a physical impossibility for these five men to cover this whole field thoroughly during any season, to say nothing of attending fairs and other meetings which the law contemplates. I, therefore, have to suggest the desirability of giving the commissioner authority to appoint in his discretion a larger number of men to this service.

The growing importance of the agricultural interests of the State and the splendid record which they made in the exhibits at the World's Fair suggest the propriety of a new holiday, to be known as Harvest Day, a day set apart for stimulating interest in agricultural matters and enjoying the season of harvest. Such a holiday might be of decided benefit to farmers and others if proper provision for its observance each year should be made under the direction of the Commissioner of Agriculture, in connection with the State Fair at Syracuse. This fair is now established in a permanent home; some of the buildings have been built with State money, and it has been the policy of the State to foster it by appropriations of money for premiums and other purposes. It is more distinctively a State Fair than other large fairs for which the Legislature has recently appropriated public money. The State Agricultural Society, under whose auspices it is managed, would undoubtedly be willing to arrange the time of its holding so as to include this proposed public holiday, and any appropriations of money to the fair could include provision for its observance in such way as to be of greatest benefit to the farming interests. I submit this suggestion for your careful consideration.

THE STATE TOPOGRAPHIC SURVEY.

The work on the State topographic survey has progressed satisfactorily during the past year under the joint supervision of the State Engineer and Surveyor and the United States Geological Survey. Under the arrangement entered into between the United States and the New York State authorities, in pursuance of legislative action last spring, the State is to pay half the expense of this work and the federal government half. The total area mapped during the year was 5,230 square miles, at an aggregate cost of $10.07 per square mile. Prior to 1893, 4,158 square miles had been mapped. Thus in all something less than 10,000 miles, or about one-fifth the area of the State, has been surveyed and mapped. The cost of the complete survey is estimated at $500,000, of which the State will be called upon to pay about $200,000, in addition to what has already been appropriated. Eight annual appropriations of $25,000 each wili permit the steady progress of the work, and the importance of an accurate survey of the State would seem to justify this expenditure — especially since under the present arrangement the State has to bear only half the cost.

HONORS TO UNION SOLDIERS.

The formal dedication of the monuments erected at Gettysburg to the memory of the New York soldiers who took part in that battle occurred on the first, second and third days of July last, and through the generous provision of the Legislature was attended by more than 7,000 surviving veterans of the New York commands in the battle. The occasion was an impressive one, and the judgment of all who visited the battlefield was that the money appropriated by the State for this noble purpose had been well spent. The reunion brought out the fact that there are now at least 11,000 surviving veterans who fought at Gettysburg under New York commands — a much larger number than was supposed — and this fact called for greater expenditure than was anticipated. No soldier should be deprived of the medal issued upon that occasion who is justly entitled to one, and the people of the State will justify provision for any reasonable deficiency caused in carrying out the purpose of last year's act.[13]

Following the precedent set in consecrating the national battle field at Gettysburg the last Legislature also made provision for the appointment of commissioners to act in co-operation with national commissioners in ascertaining and marking the positions occupied by each New York regiment, battery or independent organization participating in the battle of Chickamauga or Chattanooga. The report of the commissioners will show what progress has been made in this direction, and what additional legislation is needed, if any. I thoroughly sympathize with these efforts to commemorate the sacrifices of our country's defenders, and I trust that the State of New York will not be backward in doing its full share in this good work.[14]

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[13] The supply bill, chapter 358, appropriated $27,534 to pay deficiencies in expenses connected with the celebration of "New York" day at Gettysburg battlefield in July, 1893.

[14] Chapter 371, approved April 27, provided "for the erection of suitable monuments, memorial structures and markers in honor of and to the memory of the soldiers of the State of New York who were engaged in the military operations around Chattanooga, comprising the battles of Wauhatchie, Lookout Mountain, Missionary Ridge and Ringgold in 1863." The act appropriated $21,000.

LABOR INTERESTS.

On account of the many men out of employment by reason of the industrial depression all authorized public works have been pushed ahead, giving occupation to thousands of persons who otherwise would have been idle. I can not urge too strongly upon the attention of the Legislature that all new appropriations for State public works be enacted as early in the session as practicable, so that in its legitimate field the State may do what it can for the relief of the unemployed. This will be a winter of suffering and distress for many families, and while much of the relief must necessarily under our form of government come from the charity of individuals, the State can do much to assist by requiring the prompt undertaking of all necessary public construction work. A generous recognition by the Legislature of its powers in this direction is demanded by existing industrial conditions.

The provisions of law enacted during the past two years regulating the manufacture of clothing in tenement houses and sweat-shops have been vigorously enforced, with the result that the worst abuses of the so-called "sweating" system have been eradicated. Some of the persons who have been driven out of their sweating quarters in New York city and Brooklyn have moved out of the State into the cities of New Jersey, where they may perhaps for a time continue to make goods in squalid and unhealthy surroundings; others have moved into the country, and improved their condition by renting cottages and separate workshops, where, with better air, more sunlight, and plenty of water, they will certainly become healthier and cleaner workmen, and the clothing manufactured by them will be less liable to disease contamination. Partial statistics for the city of New York during 1893 show that there have been erected fifty-nine factory buildings, containing 483 separate shops, on the sites of tenements formerly swarming with people engaged in the making of clothing in bedrooms and kitchens. Three hundred and seventy-one tenements have been cleared entirely of "sweaters" and are now used only for living purposes, and eighty-five tenements have been cleared of residents and remodeled into shop buildings. In the aggregate this has improved the conditions under which 17,147 people manufacture clothing in the city of New York. This has been accomplished during a time when dullness in business had for the most part checked building operations generally, and when slackness in the clothing trade had restricted the necessity for workshops of any description. It can, therefore, be confidently asserted that with the revival of business and consequently increased demand for separate workshops the building of structures intended exclusively for clothing workshops will be greatly stimulated, since it is understood that the law will no longer permit the use of tenements or dwellings for this class of manufacturing.

Fewer labor strikes and lockouts have taken place during the last year than for several years past. In many instances, notably in the recent strike of the Lehigh Valley railroad employees, the State Board of Mediation and Arbitration have been instrumental in amicably adjusting differences between employers and employees.

AN INDUSTRIAL CLASSIFICATION OF INHABITANTS.

The Bureau of Labor Statistics has been engaged during the past year in classifying and tabulating the returns of the State census of 1892, according to the nationality, sex, age and occupation of the 6,513,343 names in the enumeration. This is an important work and provision should be made for its completion. The results will be of particular interest in the complete information they will furnish of the occupations of the people.

THE PUBLIC HEALTH.

The spread of cholera in Western Europe last spring called for extra work on the part of the State Board of Health to prepare for the reception of the disease should invasion take place. Local boards of health throughout the State were required to report upon the sanitary conditions of their municipalities and as to what arrangements had been made to care for cases of cholera if any came. In order to assure active and efficient work, six inspectors were appointed by the State Board to visit all places of entry into the State and such other places as would be exposed, reporting the needs for further sanitation, erection of hospitals, disinfecting stations or such like matters of importance to the public health. The wisdom of this work has been well shown in greater energy on the part of local health authorities, and while it is a source of congratulation that cholera did not reach this side of the Atlantic, had it done so the readiness in which the most exposed places were put was an assurance that an extended epidemic would have been prevented.

The precautions at the Quarantine Station in New York harbor were equally vigilant and thorough.

The examination of cattle for tuberculosis has been steadily pushed. In all, since January 1, 1893, 19,001 head have been examined, and 613 killed to prevent the spread of the disease. Microscopical and bacterioligical examinations have been made of milk and specimens taken *post mortem,* showing the presence of the tuberculosis germ in all. Care is exercised in examinations and careful records are kept. The result will be, if work in this direction is continued, to improve the cattle in the State, enhance the dairy interest and add a further protection to the public health by removing this source of disease germs.[15]

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[15] Chapter 617, approved May 10, created a commission of five members to be appointed by the Governor, consisting of one physician, one veterinary surgeon and three members of the New York State Dairymen's Association,

COMMON SCHOOL EDUCATION.

The number of children attending the common schools during the year 1893 was 1,083,228, an increase of 10,135 over the previous year. The number of children of school age was 1,892,388, showing that 809,160 children, nearly half the children of school age, were educated in private or parochial schools, or were not in school at all. The total amount expended for public schools during the year was $21,901,678.72, an increase of $767,162.98 over the amount expended in the previous year. The larger part of this sum of course was raised by local taxation. I renew previous recommendations for encouraging by all proper means the efficiency of the common school system. Our free schools should be the first care of the State, and the object of wise and liberal legislation.[16]

THE STATE PRISONS.

The number of convicts in the three State prisons on September 30, 1893, was 3,491, being 104 less than on the same date of the previous year, and the lowest since 1889. The average cost of care and maintenance for the fiscal year was $137.04 for each convict.

The financial results of the industries in the State prisons were not as satisfactory as usual. This was owing

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who were vested with the powers then possessed by the State Board of Health relative to tuberculosis in cattle, and whose duty it was to make investigations concerning this disease and report to the Legislature in January, 1895.

Chapter 674, approved May 12, appropriated $30,000 for expenses to be incurred in connection with the examination and destruction of diseased cattle.

[16] A consolidated school law, chapter 556, was passed at this session, and also a compulsory education law, chapter 671. Chap. 556 was sustained as to separate schools for colored children in People ex rel. Cisco v. School Board (1900), 161 N. Y. 598. As to the appellate jurisdiction of the superintendent of public instruction, see People ex rel. Underhill v. Skinner (1902), 74 App. Div. 58.

to the depression in business, which affected the sale of articles manufactured; to the recent legislative restrictions as to the kinds of industries which should be permitted, and to the employment of some of the convicts in road-building and in the construction of new workshops and other prison buildings. The main object is, of course, to keep the convicts at work, and at the same time not to permit their labor to compete with that of free men. There were but 1,306 convicts employed in productive industries on September 30, 1893, compared with 2,162 on the same day in 1892. This falling off could not but affect the prison receipts from industries. At the same time it is gratifying to know that the employment of convict labor in building workshops at Clinton and Auburn prisons has given excellent results in construction and has saved the State about $46,000. I suggest the propriety of incorporating in all legislative bills making appropriations for the reconstruction or improvement of prison buildings a provision that so far as possible the work shall be done by convict labor.

Many of the convicts at Clinton prison have been employed at road-building in the vicinity of the prison. This was in the nature of an experiment, and the warden reports that the results are satisfactory. There were three escapes of convicts, of whom one was recaptured.[17]

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[17] Chapter 266, passed April 4, provided for the employment of state prison convicts on public highways within thirty miles of the prison where they were confined, but not within an incorporated city or village. The act of 1893, chapter 312, relative to highway work by inmates of Clinton prison was repealed.

Chapter 698, approved May 14, 1894, required prison made goods manufactured in and imported from another State to be branded as such before being exposed for sale in this State. This act was held unconstitutional in People v. Hawkins (1895), 85 Hun 43.

Chapter 699, approved May 14, was intended to regulate the sale in this State of goods manufactured in prisons in other States, and required a license from the comptroller before a person could engage in selling such goods.

INDETERMINATE SENTENCES AT THE ELMIRA REFORMATORY.

The transfer of prisoners from the Elmira Reformatory to the State prisons is a subject deserving careful consideration. The statute authorizes the managers of the reformatory to transfer temporarily, with the written consent of the Superintendent of Prisons, to either of the State prisons, any prisoner shown to have been at the time of his conviction more than thirty years of age, or to have been previously convicted of crime, and also any apparently incorrigible prisoner whose presence in the reformatory appears to be seriously detrimental to the well-being of that institution. The managers may also require the return to the reformatory of any person so transferred. Acting under this authority the managers have from time to time transferred prisoners in much greater numbers than I think could have been contemplated when the law was enacted; and the transfers do not appear to be made temporarily, but finally, and with the intent that the remaining portion of the terms of those transferred shall be served in the prison.

From reports made to me by the wardens it appears that between December 20, 1890, and July 19, 1893, 150 prisoners were transferred from the Elmira Reformatory to Clinton Prison; and between March 17, 1891, and September 7, 1893, 300 were transferred to Auburn Prison; and up to the first day of October last only one of the whole number had been returned to the reformatory. When it is considered that these prisoners are not old offenders but are undergoing punishment for their first felony, that many of them are mere lads, that the purpose of sending them to the reformatory was to administer a light punishment and if possible to effect their reformation, and that committing them to the State prison practically consigns them to imprisonment for the longest term prescribed by the Penal Code for their offenses, the gross injustice of making the transfers upon the system now prevailing will be at once appreciated.

In my judgment this system should be altogether abolished, or else so far modified as effectually to prohibit abuse. The managers ought not to be clothed with the arbitrary power of committing to prison for long terms persons sent by the courts to the reformatory for purposes of reformation. Transfers should be made only for good cause and upon application to the court in which the person sought to be transferred was convicted, so that the punishment may be properly adjusted, or else such other legal proceedings should be required as may be necessary to prevent injustice. I respectfully recommend such legislation as will correct the evils now existing.[18]

REFORMATORY MANAGEMENT.

With my approval the State Board of Charities has been making an investigation into published charges against the Superintendent of the Elmira Reformatory. Pending the conclusion of that investigation and the Board's report thereon, I refrain from commenting upon the matter. But the publication of the charges and the investigation by a State Board of Commissioners, who can only report the testimony with suggestions, and are powerless to correct any evils which may be discovered, suggest the propriety of such changes in all the laws governing reformatories as will give the Governor the power of removal over superintendents, upon the presentation of formal charges and after an opportunity to the accused to be heard in his own behalf. The power of appointment to fill vacancies caused by removal should be lodged where it now is — with the local managers — but it seems to me that it would be a wise provision to place the power of removal elsewhere.[19]

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[18] The statutes relating to the government of the Elmira Reformatory were revised and consolidated by L. 1900, chapter 378. The revision materially modified the scheme of transfers from the reformatory to state prisons. Under the new law a transfer could be made only upon the order of a justice of the supreme court after such hearing as he might prescribe. The act provided that a prisoner so transferred should be confined in the state prison as under an indeterminate sentence commencing with his imprisonment in the reformatory, with a minimum of one year and a maximum fixed by law for the crime of which the prisoner was convicted and sentenced, and might be released on parole or absolutely discharged as are other prisoners confined under an indeterminate sentence. The act further provided that a prisoner so transferred might be returned at any time to the reformatory in the discretion of the superintendent of state prisons, and with the consent of the board of managers of the reformatory. For a special message on this subject see *post* p. 387.

PREVENTION OF WASTE BY FIRE.

The large increase in losses by fire in the United States, and particularly in the State of New York, during recent years is worthy of the serious consideration of the Legislature, to the end that remedies may be devised, if possible, for minimizing this great evil. The average losses by fire in the country during the last five years have been $127,000,000 annually, and a compilation of the losses for the year just ended will probably show a greatly increased aggregate of waste. Many fire insurance companies have gone out of business and others have been obliged to increase rates.

It is not from the point of view of the insurance companies, however, that I would call your attention to this matter, but from the point of view of the general public. Great losses by fire are always to be deplored. They diminish the amount of taxable property, they throw men out of employment, they cripple business, they destroy capital, they wipe out profits, they sacrifice human lives, and they impose extra burdens on all property owners by increasing the rates of insurance; for if insurance companies must take greater fire risks the insured will be compelled to pay greater premiums.

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[19] The suggestion that the Governor be given power of removal of the superintendent of Elmira Reformatory was not adopted. The revised reformatory law of 1900, chapter 378, vested the power of removal in the Board of Managers, and this power was continued in the Consolidated Reformatory Law of 1906, chapter 684.

It is a somewhat difficult problem to devise the best means of reaching this evil. More stringent building laws have been suggested, as has also the compulsory investigation of fires by properly constituted local officers. It has also been brought to my attention that part of the recent increase in fire losses is attributed to the improper wiring of buildings where electricity is to be used for light or power, and the suggestion has been made that persons installing electric equipments in buildings should be compelled to show licenses certifying to their fitness for the work and issued by a competent board of control, very much in the same manner that steam boiler inspection and certification are now required. I commend this subject to your attention and trust that some proper measure of legislation may receive your favorable consideration. Certainly it is not a gratifying reflection that in the city of New York there are four times the number of fires that there are in the principal cities of Europe, and more than four times the destruction of property. Yet this comparative statement is said to be accurate.

AMENDMENTS TO THE BANKING LAW.

The conservative management of our State banks was abundantly demonstrated during the financial panic of last year. The proportion of banks under State supervision which suspended was very small. There were instances of reckless management, however, and the question is presented whether the present banking law cannot be strengthened so as to compel even greater conservatism in methods and more rigid inspection by the Banking Department.

Two suggestions in this direction are particularly submitted to your attention. One is that no officer or employee of any bank or other institution subject to the banking laws should be allowed to borrow, directly or indirectly, any of its funds, without first making application to the board of directors and obtaining the consent of at least a quorum of the board. The other suggestion is that banks should be obliged to set aside a certain proportion, say ten per cent., of their net profits each year as a surplus account until such surplus equals twenty per cent. of the capital stock. In behalf of this requirement it is urged that many of the smaller banks, instead of accumulating a surplus, declare and pay out their entire net profits as dividends, thus leaving the bank nothing with which to pay losses without impairing its capital.

There may be other legislation upon this subject needed for the protection of public interests, and your attention is respectfully called to the matter.

FISH PROPAGATION.

The Legislature of 1893 passed bills providing for two new fish hatcheries, one in Sullivan county and the other in Steuben. I refused to give my assent to these measures unless the establishment of the hatcheries was made conditional upon the decision of the Commissioners of Fisheries that the places named were properly located for the propagation of fish. This condition was inserted in the measures, and the Commissioners have decided that certain kinds of fish, chiefly trout, can be successfully propagated in the waters of these localities, and have accordingly made arrangements for the building of the hatcheries. It would be unwise, however, in my opinion, for the State to establish any more trout hatcheries. We have enough of these already. Trout is particularly a game fish, and public money should rather be used for the propagation of food fish, such as pike, perch and white fish, from the bountiful supply of which greater benefit will accrue to the people of the State. As I said in my last annual message, merely to conserve sportsmen's interests would not justify large appropriations for fish cultivation from the public treasury. The measure of opportunity is much wider than is prescribed by any such narrow field. "There are 1,500 square miles of water within the area of our State, capable of producing an unlimited supply of fish food, thus cheapening in large degree the cost of living to the people, creating additional employment and adding to the State's wealth. Every stream might be made to yield largely to the food supply of the farms through which it runs, and every lake might give means of livelihood to more men and furnish cheap, palatable food to more families. Liberal stocking of Lake Ontario with white fish, pike and lake trout, assisted by proper regulations for catches, would build up an important industry in that vicinity, profitable alike to the fishermen and to the public."

In the direction of applying this policy it is worthy of note that of the 80,000,000 of young fish raised in the State hatcheries during the last year, the larger proportion was of what might be strictly called food fishes. The total amount of fry hatched and distributed in the waters of the State was fifty per cent. in excess of the hatching and distribution of any previous year. Eighteen million white fish were planted in Lake Ontario. This lake was formerly famous for its white fish, but constant fishing had so depleted it that until the present year the catch on the American side was comparatively insignificant. As a result, however, of the persistent stocking of the lake by the Commissioners of Fisheries during the last five years, the fishermen report a large increase in the catch during the season recently closed. The commissioners should be permitted this year to make a still larger plant, and to continue the work until the lake is thoroughly stocked.

I would suggest the passing of an act providing for the registration of nets and their use throughout the State under proper supervision. The mesh of these nets should be large enough to permit the escape of small fish not yet old enough to breed, and the net should not be used at all during the spawning season. Their use should not be permitted in trout streams, nor in lakes where there are none but game fishes. In this way food fish could be taken where desirable and yet the game fishes be protected. As the commissioners are now stocking the waters of the State with many varieties of fish that cannot readily be taken by hook and line, some provision should be made for their capture, while at the same time protecting game fishes. The law passed two years ago prohibiting the catching of bullheads and suckers by any other means than angling proved a great hardship, and as a result nearly every county in the State was last winter exempted from its provision. The system of registration and allowing the use of nets under these safeguards proposed, would, in my opinion, be satisfactory both to the anglers and to the farmer to whom the common varieties of fish prove an agreeable addition to his ordinary bill of fare. A small fee should be charged for registering, and for the permit to use, in order to pay the expense of this work, and the registration would give the commissioners accurate knowledge of the location of every net in the State, together with the name of its owner, and would enable them in a great measure to prevent improper use and at the same time allow the needed facilities for the capture of food fishes. This system has worked very successfully in Canada.[20]

NATIONAL GUARD AND NAVAL MILITIA.

The necessity of a military force is recognized by the laws of the State. Its value depends entirely upon its efficiency. A high standard of discipline and instruction has been prescribed and for the most part maintained, and while constant efforts are made to advance this standard, it may be said that both these establishments are in an eminently satisfactory condition and worthy of the fostering care of the people. The Naval Militia is already well equipped. Under recent appropriations the National Guard will soon be thoroughly equipped for any service it may be called upon to perform.

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[20] Chapter 627, approved May 10, amending the game law, regulated the size of the meshes of nets used for catching certain kinds of fish, but registration of nets was not required.

MUNICIPAL GOVERNMENT.

I reiterate previous recommendations relative to the government of cities. Under our present system of conveying municipal powers by legislative charter, the Legislature must always determine both the extent of those powers and their nature. Any change in these respects must come by charter amendment or by special statute — but it must come through the Legislature. Some charters confer greater powers upon municipalities than others, but all spring from the same source and any changes, good or bad, must come from the same source. This system throws great responsibility upon the Legislature. It brings up the question of Home Rule and propriety. Home Rule is a fundamental principle which the people rightly cherish. The distinction, however, is not always drawn, as it should be, between municipal legislation involving the question of Home Rule and that involving the question of legislative propriety. It is an invasion of the principle of Home Rule, and the spirit of the Constitution, when the Legislature assumes to deprive municipalities of the right to choose — either by election or by appointment at the hands of some elective officer or officers — their own local officers for the administration of local affairs.[a] This is seldom justifiable. It is not, however, a violation of the principle of Home Rule when the Legislature transfers, by charter amendment or otherwise, certain powers or duties from one local officer to another, or from one set of local officers to another; this is a question of propriety, not of Home Rule. The change may or may not be wise, but it is within the complete province of the Legislature and violates no principle of Home Rule, for it takes away no measure of local authority.

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[a] Const. 1846, Art. 10, § 2.

These illustrations serve to indicate a distinction which should always be drawn in considering municipal legislation. It is contrary to sound principles of legislation to diminish the powers of municipalities, or to foist on them by legislation local officers in whose selection they have no voice, direct or indirect; and against such legislation most good citizens are generally united. Many charter amendments, however, and much local legislation consist in extending existing municipal powers or in redistributing municipal powers and duties, and the propriety of the proposed changes is largely a matter of legislative discretion, to be exercised in accordance with well recognized principles of legislation. The judgment of the legislative representatives of the localities affected may be arbitrarily followed or may not be; the supposed wishes of the local officers may be complied with, or may not be; the alleged prevailing sentiment of the people of the locality may be respected, or may not be — these are questions of propriety which the Legislature and Executive must determine according to their own judgments, but they involve no question of Home Rule. As a general rule, it may be said that local legislation passed in response to the efforts of the members from a locality should be considered as representing the prevailing sentiment of that locality, although experience has shown that this is not a safe rule always to follow. The aim of the Legislature and the Executive should be, in enacting local legislation, to ascertain as accurately as possible, and in every way possible, what the prevailing sentiment of the locality is, and, when ascertained, to follow it, but above all the law-making power should not violate the principle of Home Rule by destroying or usurping legitimate municipal powers.[21]

CONCLUSION.

Although the Legislature and the Executive represent different political convictions and parties, the greater part of their responsibilities and duties involves no political questions of interest, but has to do with giving the people a wise, economical and business-like State government. Permit me to express the hope that we may jointly and harmoniously endeavor to accomplish this object. The great majority of people care nothing for political advantage which is secured by resort to petty legislative or administrative political manoeuvering, but judge public officers by their honest discharge of duty and their faithful adherence to the trusts which the people have confided to them. Let us stand upon this high plane of official effort.

ROSWELL P. FLOWER.

SPECIAL MESSAGES.

January 9. To the Assembly: Transmitting the report of the Comptroller's agent for the examination of charitable institutions.

January 9. To the Assembly: Transmitting the annual report of the State Board of Pharmacy, and the Adjutant-General.

January 17. To the Assembly: Transmitting the annual report of the Board of Commissioners of Pilots.

January 22. To the Assembly: Transmitting a communication from the Board of Managers of the Thomas

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[21] The Constitutional Convention of 1894, incorporated in the Constitution a provision, article 12, section 2, requiring the submission of every bill for a special city law to prescribed authorities of the city affected for their approval before the Governor could entertain jurisdiction of the bill, and required a repassage of the bill by the Legislature if it should be disapproved by the city authorities.

Asylum for Orphan and Destitute Indian Children, requesting an increase in the appropriations for compensation of officers and subordinates in the institution.

January 24. To the Legislature: Transmitting the annual report of the Cooper Union.

January 26. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *January* 25, 1894.

"I transmit herewith a copy of a communication which I have received from the Antietam Board of the War Department of the United States Government — a board organized in pursuance of an act of Congress, approved August 30, 1890, for the purpose of surveying, locating and preserving the battle lines and acquiring lands at Antietam, Maryland, and for marking the same with suitable tablets. As will be seen from this communication the board is desirous that the States whose military organizations were represented at the battle should co-operate in this work. I took occasion, in my annual message transmitted recently to your honorable body, to commend heartily the effort to preserve all these historic landmarks in our military history, and I believe the people of the State will justify any reasonable expenditure for this purpose.

The State has already generously provided for commemorating the part which New York troops took in the battle of Gettysburg, and has also made the preliminary provision for a like commemoration of the participation of New York troops in the battle of Chickamauga. The reasons are equally potent for similar action with regard to the battle of Antietam. This battle is known as one of the bloodiest of the War of the Rebellion. The number of killed in the one day's engagement was two thousand one hundred and eight, of whom nearly seven hundred belonged to New York regiments. There were altogether in this battle sixty-five New York regiments, besides numerous batteries — numbering altogether about seventeen thousand soldiers. State pride should see to it that the positions which these troops occupied in the engagement should be located and designated by appropriate monuments.

I recommend that the Legislature authorize the appointment of commissioners to act in conjunction with the Federal Antietam Board, and I also recommend the appropriation of such amount of money as may be needed to pay the expenses of the commissioners and permit the proper carrying out of this patriotic work.[22]

ROSWELL P. FLOWER."

ANTIETAM BOARD:

WAR DEPARTMENT,
WASHINGTON, D. C., *January* 25, 1894.

To His Excellency, the Governor of New York:

Sir.—An act of Congress, approved August 30, 1890, appropriated a sum of money for the purpose of surveying, locating and preserving the battle lines and acquiring lands at Antietam, Md., also for marking same with suitable tablets. The Honorable Secretary of War, to carry out the provisions of this act, appointed a board consisting of two officers, one from the Union Army and one from the Confederate Army. The board determined to illustrate this battlefield by a series of maps, the first showing the positions of the brigades of each army on the morning of September 17, 1862, before the battle began; the second, now under way, will show the extreme advance of the

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[22] No general provision was made for monuments on the Antietam battle field, but several acts passed in subsequent years provided for regimental monuments.

Union forces; the third will show where the brigades of each army bivouacked on the night of the seventeenth, after the battle terminated. These maps will be an object lesson, and, we think, fully illustrate the positions of the brigades of the two armies during this battle. We inclose two maps. The map giving the positions of the *Regular United States Army,* was especially called for by the act of August 30, 1890.

It must be remembered that this, the most sanguinary one day's fight of the war, was fought thirty-one years ago; that most of the prominent officers who commanded troops in this battle have passed away, and in a few years all who participated in this fight will have joined their comrades who fell on this field. The reports made and preserved of this battle are published in Volume XIX, "War of the Rebellion Official Records." Many reports are missing and many very meagre; so much so that it is impossible for the Antietam Board to locate their positions on the proposed maps. The organizations from your State that bore so prominent a part in this battle, as well as the people of your State, will be interested in having the monuments the government propose to erect commemorating the part they took in this battle, placed in correct positions. We respectfully suggest that you take the necessary steps to have paid the expenses of a delegation from your State to accompany the Antietam Board to the Antietam battlefield for the purpose above mentioned. Of course this delegation should be composed of officers or men who actually participated in the battle of September 17, 1862, and whose recollections of *positions occupied* on that day by their organizations, are now sufficiently vivid to enable them on visiting the field to locate the same. The Chickamauga Commission have been assisted, and are still being assisted by delegations from the States who had organizations in the battle of Chickamauga. The interest in the battle of Antietam or Sharpsburg, since the work of the Antietam Board began, has rapidly increased. Organizations from several States have already taken steps to mark by monuments the positions occupied by them on the Antietam battlefield.

We inclose report of the Committee on Military Affairs, submitted during the second session of the Fifty-first Congress, which we think you will find interesting. Also a list of the several organizations from your State that were engaged in this battle, is inclosed.

Very respectfully,
H. HETH,
for Antietam Board.

February 6. To the Assembly: Transmitting the statement of pardons, commutations and reprieves.

February 16. To the Assembly: Transmitting the annual report of the Agricultural Experiment Station at Cornell University.

March 1. To the Assembly: Transmitting the annual report of the State Geologist.

March 7. To the Assembly: Transmitting the annual report of the Civil Service Commission.

March 8. To the Assembly:

Veto of a bill entitled "An act to amend chapter six hundred and seventy of the Laws of eighteen hundred and ninety-two relative to the city of Troy."[23]

"The bill is defective in form in that it amends a section of the charter without specifying the title in which the section occurs. The charter of the city of Troy is divided into titles, and each title is subdivided into sections with a separate consecutive set of numbers. To name a section without specifying the title is shiftless and defective legislation, which in some cases might cause confusion and litigation. But whether having this effect or not such a defect should be corrected in the interest of clean legislation.

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[23] As to bi-partisan election boards, see note 8.

With the general purpose of the bill I am in sympathy, and after the correction of the defect alluded to above I would permit the bill to become a law did I not feel that to do so would imperil the prospect of securing a general non-partisan election inspectors bill applying uniformly throughout the State. In my annual message transmitted to the Legislature, at the beginning of the present session, I said:*

'Laws governing the selection of election inspectors and regulating their duties need strengthening in the interest of honest elections. These statutes are not only weak in some important respects, but they are not uniform throughout the State, so far at least as regards the selection of the inspectors. I suggest the propriety of a law which shall apply uniformly throughout the State, and shall, if deemed best, provide for a non-partisan board of election inspectors in each election district.'

In pursuance with this suggestion a general bill providing for non-partisan, or, more correctly, bi-partisan boards of election inspectors was introduced into the Legislature, discussed in both branches, and passed in each house with amendments, which have not yet been concurred in, and for two weeks this bill thus modified has been withheld from the Executive pending agreement as to its provisions. There was ample opportunity to have secured the enactment of this general bill in time to have it operative in the city and village spring elections, but instead its enactment was not only delayed, but the bill was expressly changed so as not to take effect before midsummer. While thus retarding the establishment of a beneficent reform, the Legis-

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**Ante*, p. 308.

lature has hastened to pass four special bills relating to inspectors of election in certain localities. Two of these created partisan boards of election inspectors in the Republican city of Rochester and the Republican village of Lansingburgh, one provided for a bi-partisan board of inspectors in the Democratic city of Albany, and the fourth bill is that before me. While the Albany bill (which I approve in order to manifest my sympathy with the principle) was enacted about six weeks in advance of the charter election to which it was to apply; this Troy bill was rushed through the Legislature as a partisan measure a few days before election, and after the election boards in Troy had been constituted and had performed a large part of their work. Moreover, while the provisions affecting future elections were carefully drawn and would insure genuine bi-partisan boards, the provision affecting the election of last Tuesday merely gave one of the six or seven candidates for Mayor the privilege of appointing in each district an additional inspector in sympathy with his candidacy. Under the existing political situation in Troy, where party lines were to a large extent ignored, such a provision would not have guaranteed genuine non-partisan or bi-partisan boards, but would have given one candidate, who had won an unenviable notoriety in the past, as a manipulator of election returns, an improper advantage over other candidates. Inasmuch as the election has now been held and this provision would be inoperative if enacted, this criticism is of course no longer pertinent, but I mention it to correct a misapprehension regarding the bill and as an additional illustration of the one-sided character of this sort of legislation. Why the Legislature should make such political discriminations I am unable to say. But the fact that they exist emphasizes more strongly than ever the necessity of a general law applying uniformly throughout the State, and justifies the conclusion that such a law cannot be obtained unless Executive disapproval be stamped upon all special bills of this character. I dislike to speak of political parties in an official communication, but I have yet to learn that two Democrats and one Republican are any less honest in an election board in a Democratic city than are two Republicans and one Democrat in a Republican city. If non-partisan or bi-partisan boards are good for one locality they are good for another, and no political advantage should be given to one party by discriminating between localities in such legislation. In returning this bill, therefore, I desire to express the hope that the general election inspectors bill now pending be speedily perfected and sent to the Executive, to the end that the guarantees of an honest count may be as secure to one locality as to another, and to one party as to another."

The bill was not passed over the veto.

March 8. To the Senate:

Veto of a bill entitled "An act to legalize the acts of Jefferson Sherman, a justice of the peace of the town of Marion, in the county of Wayne."

"This special act is made unnecessary by a general act covering the same subject which I signed on March fifth, and which is now chapter 96 of the Laws of 1894."

The bill was not passed over the veto.

March 8. To the Assembly:

Veto of a bill entitled "An act to amend the executive law relating to fees of county clerks, in relation to notaries public."

"This bill if enacted, would nullify, unintentionally, the provisions of chapter 88 of the Laws of the present year, which modifies the same section of the Executive Law that is herein sought to be amended."

The bill was not passed over the veto.

March 12. To the Senate:

Veto of a bill entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the aldermen of said city."

"This bill is a return to the old method of electing aldermen in the city of Brooklyn by wards — a method which was condemned some years ago and was superseded by the present method of electing aldermen on general tickets. Under existing statutes the city is divided into three aldermanic districts, from each of which four aldermen are elected for two years. In addition to this district representation seven aldermen are at the same time elected at large from the entire city. The reason for this change from the old ward system lay in the expectation that election on general tickets would give to the city a superior class of aldermen. Whether it has had that effect or not I am not familiar enough with affairs in the city of Brooklyn to know, but I fail to see how any improvement can be expected by a return to the old ward system of election. If capable men are not chosen under the present plan of selection, it would seem even less likely that they would be chosen under the proposed ward plan. I am inclined to think, therefore, that the bill is adverse to the best interests of the city.

The measure also includes a provision that the salary of each alderman shall be fifteen hundred dollars a year, except the president of the board, who shall receive two thousand dollars a year. I am opposed, as a rule, to the Legislature fixing the salaries of local officers. The revised charter of Brooklyn, enacted in 1888, provided that the aldermen should serve without compensation, and this provision remained in force until 1892, when an attempt was made in the Legislature to fix the salary at a certain figure. I refused to sign the bill in that shape, and, at my suggestion, it was modified so as to permit the Board of Estimate to determine whether the aldermen should have salaries and to fix the amount. This board did so decide, I believe, and fixed the amount of the salary at two thousand dollars, which sum the aldermen are now receiving. If this bill were allowed to become a law the number of aldermen would be increased from nineteen to twenty-eight, and several thousand dollars would be added annually to the city budget for salaries, while the vicious principle of fixing local salaries by legislative enactment would be indorsed. For this reason, therefore, as well as for that stated in the preceding paragraph, I am compelled to withhold my signature from the bill."

The bill was not passed over the veto.

March 12. To the Assembly:

Veto of a bill entitled "An act to change the corporate name or title of the First Baptist Church at Greenpoint, to the Noble Street Baptist Church of Brooklyn;" and

A bill entitled "An act to change the corporate name of 'The German Social Turn-Verein of Rochester.'"

"A general law, namely, chapter 366 of the Laws of last year, makes ample provision for the change of names of corporations. These special measures are, therefore, unnecessary."

The bills were not passed over the veto.

March 15. To the Assembly:

Veto of a bill entitled "An act to provide for repairing the bridges across the Tonawanda creek on the Tonawanda Indian Reservation and make an appropriation for the same."[24]

"I am informed by the Superintendent of Public Works, who has detailed one of his assistants to inquire into the repairs necessary on these bridges, that both structures can be put in the best possible condition for $700. Of the appropriation of $2,000 provided in this bill, $1,300 is, therefore, unnecessary and unjust taxation."

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[24] This bill was not passed over the veto, but another bill was passed, chapter 650, appropriating $800 for a bridge across Tonawanda Creek on the Tonawanda Reservation.

March 15. To the Assembly:

Veto of a bill entitled "An act to release to the government of the United States all right, title and interest which the people of the State of New York may have by virtue of chapter three hundred and ninety-nine of the laws of eighteen hundred and ninety-two, or any other act taxing legacies, in and to a certain legacy given to the said the government of the United States in and by the last will and testament of Brevet Major-General George W. Cullum, late of the city of New York, deceased."

"I am convinced that the enactment of this bill would be a bad precedent to establish for future legislation. The facts leading to the introduction and passage of the bill are these:

By the will of General George W. Cullum, deceased, a legacy of $250,000 was bequeathed to the government of the United States for the erection of a memorial hall at West Point. Upon this legacy the surrogate of the county of New York assessed a collateral inheritance tax of $8,755. This order was appealed from by the government of the United States and the executors of the decedent, and both the General Term and the Court of Appeals have affirmed the surrogate's order holding that the State is justly entitled to the tax.[b]

This bill would set aside the decisions of the courts and release the interest of the State in the tax. No good reason has been advanced why this exemption should be granted, and the bill is a type of particularly obnoxious special legislation."

The bill was not passed over the veto.

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[b] *Re* Cullum, 145 N. Y. 593.

March 15. To the Assembly:

Veto of a bill entitled "An act to amend chapter two hundred and ninety-one of the Laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages,' by authorizing village trustees to regulate and license persons engaging in a temporary or transient business."

"This bill is probably unconstitutional. It proposes to amend the general village law by authorizing village trustees 'to regulate and license persons engaging in a temporary or transient business of selling goods, wares and merchandise within the village.'

The object of the bill is in certain respects desirable. It aims to protect the regularly established merchants in a village from competition of transient merchants who rent stores temporarily and advertise sales of bankrupt stock or damaged goods at reduced prices, and who do not remain long enough in the village to become residents thereof and pay their share of village taxes.

Legislative attempts have been frequently made to require such transient merchants to pay a village tax under the guise of a license fee; but unless the nature of the goods sold or the methods of sale are exceptionally dangerous to the health, peace, order or morals of the community, the courts have uniformly held such legislation to be unconstitutional as not within the police power of the State. Thus hawking or peddling, which involves going from house to house, was in early times held to be a method of sale exceptionally dangerous to the peace and good order of the community, because especially in earlier times it was often adopted as a guise for tramps, vagrants and thieves, to obtain access to private dwellings and acquaintance therewith for the purposes of committing thefts or other crimes therein. Such articles as dynamite, gun powder and intoxicating liquors have been held to be so exceptionally dangerous as to authorize the State in the exercise of its police power to regulate and restrain the sale thereof and to license only such persons as should be deemed trustworthy to be engaged in the sale of such articles. But the sale of ordinary goods by ordinary methods has been uniformly declared by the courts to be the right of every citizen without interference by the State in the way of requiring permission and payment of a license fee for the privilege of engaging in such business.

Moreover, the language of this bill is so broad as to authorize the trustees of such village to prohibit the farmer from selling his load of wheat in the village without first obtaining a license and paying a license fee therefor to the village authorities. However desirable the object of the bill may be, such object cannot be accomplished under the clauses of the Federal and State Constitutions which limit the police power of the State. Both the United States Constitution and the State Constitution provide that no person shall be deprived of life, liberty or property, without due process of law.[c] The State and Federal courts have uniformly held that liberty in this broad sense means the right of every citizen to pursue an ordinary occupation and earn his livelihood therein without interference by the State other than for the purposes of taxes, if said occupation is not dangerous to the health, peace, order or morals of the community, and that any law which deprives a person of such liberty is not due process of law; that no license can be required as a privilege of engaging in such occupation, and that a tax cannot be imposed by virtue of an authority to license. This bill cannot be construed as imposing a tax, for it only authorizes the granting of a license. It cannot, therefore, be held constitutional as an exercise of the taxing power, and it seems to be clearly unconstitutional as an exercise of the power to license."

The bill was not passed over the veto.

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[c] Const. 1846, Art. 1. § 6; U. S. Const. 5th Am.

March 16. To the Assembly: Transmitting the annual report of the Commissioners of Quarantine, and the annual report of the Commission created by chapter 270 of the Laws of 1888.

March 16. To the Assembly:

Veto of a bill entitled "An act to authorize any citizen of the city of Hornellsville to remove the human remains buried in the old Hornell cemetery, at the city of Hornellsville." [25]

"The bill is not drafted with sufficient safeguards. The board of health, or some other properly constituted local authority, ought to have direction and supervision over such removals and reinterments. Such local authority could then ascertain whether persons desiring to make removals of bodies are responsible and could prescribe the conditions under which removals and reinterments might be made. As the bill now reads any citizen, though in no way related to the deceased, may remove the remains from the cemetery. The only restrictions imposed by the bill are that he must obtain a permit from the board of health, and that he must reinter the remains in any appropriate cemetery in said city. But no provision is made for the method of reinterment or the replacing of head-stones or monuments, or for supervision of reinterment by the board of health after granting the permit. The board of health under this bill would have the power to grant permits for disinterment to medical students for the purposes of dissection. While it may safely be assumed that no such permit would be granted, the true theory of legislation requires that such broad powers should not be conferred."

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[25] This bill was not passed over the veto, but another bill, chapter 337, authorized the removal of remains from the old Hornell Cemetery in the city of Hornellsville, such removals to be made under the direction of the city board of health.

March 16. To the Assembly:

Veto of a bill entitled "An act to amend chapter twenty-nine of the Laws of eighteen hundred and eighty-six, entitled 'An act to amend chapter four hundred and ten of the Laws of eighteen hundred and ninety-four, entitled "An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the State of New York.'" '"

"This bill amends the civil service law by adding persons holding life saving medals to the class of persons now preferred for appointment to positions in the civil service of the State and of the cities affected by the civil service act. While persons holding such medals of honor are justly entitled to proper recognition for their heroism, I should think it an unwise provision of law to give them preference over all other citizens (excepting honorably discharged soldiers and sailors) in competition for admission to government service. Such a provision might, in some cases, seriously impair the efficiency of the civil service. Laws like these tend to break down the operation of the civil service act and ought not to extend the list of preferred competitors beyond veterans of our late war."

The bill was not passed over the veto.

March 19. To the Assembly:

Veto of a bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of John R. Putnam against the State for damages to his property caused by the State, and losses sustained and growing out of the management of the Erie canal, and to make an award therefor."

"Identically the same bill was vetoed by me last year.* The claimant has already received an award of $600 from the Board of Claims for the loss of his canal boats, and has at the present time pending before the board, but undecided, another claim for damages arising out of the same case. I can see, therefore, no justification for the enactment of this bill.''

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*_Ante,_ p. 269.

The bill was not passed over the veto.

March 19. To the Assembly:

Veto of a bill entitled "An act to amend the agricultural law providing that compensation of agents appointed by the commissioner of agriculture to investigate the diseases of yellows or black knot shall only be a town charge when his appointment was requested by the town board."

"The amendment proposed by this bill is inconsistent with section 83 of the Agricultural Law, which compels the Commissioner of Agriculture, when he has reason to believe that any such contagious disease as yellows or black knot exists in any locality, to appoint a competent freeholder of the locality as his agent for the investigation and suppression of the disease. If such agent is to receive compensation only when his appointment is requested by the town board, as is proposed by this bill, the provision in section 83 imposing on the Commissioner of Agriculture the duty of appointing an agent should not remain mandatory, for it would be useless for him to appoint agents and impossible to secure from them competent service if they were to be excluded by the terms of the law from any compensation therefor.

Were this inconsistency removed and the Commissioner of Agriculture permitted to appoint an agent only upon the request of the town board, the question would then recur as to the advisability of such legislation. There might be good reasons for insisting that town boards should not be compelled to audit expenditures not authorized by them, but, on the other hand, it is urged that the provisions of the legislation against the spread of contagious diseases among fruit trees would be rendered practically inoperative by making their operation dependent upon the action of a town board. It is pointed out that originally the law on this subject provided for the appointment of agents by supervisors, but that horticulturists complained that supervisors were so anxious to keep down town charges that they would refuse to appoint inspectors, and on account of this complaint the law was changed conferring the power of appointment upon the Commissioner of Agriculture. To accept the amendment provided for in this bill, horticulturists say would practically restore the law to the former objectionable form. For these reasons I prefer to withhold my approval from the bill."

The bill was not passed over the veto.

March 19. To the Assembly:

Veto of a bill entitled "An act to amend chapter four hundred and thirty-one of the Laws of eighteen hundred and ninety, entitled 'An act to require fire-escapes in connection with certain school buildings.'"

" The effect of this bill is to weaken the provisions of the act of 1890, requiring fire-escapes on all school buildings which are more than two stories high. The present law is mandatory and gives local boards of education or trustees no discretion in the premises. This bill would enable them to refer the necessity of fire-escapes in a particular case to the State Superintendent of Public Instruction, and the decision of that officer would be final.

In my judgment this responsibility should not be placed upon the Superintendent of Public Instruction. If any discretion is to be allowed to public officers in such a matter it should be conferred on the local trustees or boards of education. But it is questionable whether such a law should ever be permissive in its terms. It involves the safety of human lives, and its purpose was, undoubtedly, to compel compliance with what was thought to be a necessary legal safeguard against neglect or undue penuriousness on the part of local authorities. To change its mandatory character might result in nullifying its desirable object."

The bill was not passed over the veto.

March 20. To the Assembly:

Veto of a bill entitled "An act to amend chapter four hundred and sixty-four of the Laws of eighteen hundred and eighty-six, entitled 'An act to improve the road leading from Buffalo to the village of Williamsville, from the city line to Ellicott creek, and commonly known as the Main street road.'"

"The principal objectionable feature of this bill is that, while reserving to the corporation the right to charge tolls for the use of the road, it would compel the property owners along the road, within the town of Amherst, to pay for the necessary repairs and improvements on the road. This, manifestly, is unjust. If the people are to pay the cost of maintaining the road in good condition they ought not to be subjected, in addition, to the burden of tolls."

The bill was not passed over the veto.

March 21. To the Senate:

Veto of a bill entitled "An act to change the corporate name of the Davenport Institution for Female Orphan Children, incorporated under chapter one hundred and thirty-two of the Laws of eighteen hundred and sixty-three."

"Chapter 363 of the Laws of 1893 makes ample provision for changing the corporate name of a domestic corporation, whether incorporated by a general or special law, and this special act is, therefore, unnecessary. It contains no provisions which are not already permitted under the sections of the general law referred to."

The bill was not passed over the veto.

March 22. To the Assembly:

Veto of a bill entitled "An act to amend chapter four hundred and sixty of the Laws of eighteen hundred and sixty-three, entitled 'An act relative to the lands granted to this State by the act of Congress, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two, and authorizing the sale thereof and the investment of the proceeds of such sales,' relating to the sale of securities and transfer of proceeds to the College Land Scrip Fund; and repealing section seven of said act."

"The purpose and effect of this bill are to enable the State to borrow about $600,000 of moneys composing the College Land Scrip Fund, and belonging to Cornell University, and to pay for the use thereof five per cent. interest annually. It is, in my opinion, not a wise policy at this time to borrow money at five per cent. interest when the State cannot invest it at that rate with the present ruling price for money. Should the Legislature desire to swell the treasury's general fund by borrowing money, millions of dollars can be obtained at three per cent. So far as the State's interests are concerned, therefore, this legislation would be very shortsighted policy in this year of plethoric money markets. Neither would the bill be of any immediate advantage to Cornell University, since most of the money composing the fund is now invested at five per cent. or more, of which revenue the University gets the benefit."

The bill was not passed over the veto.

March 22. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *March* 22, 1894.

"I have the honor to transmit herewith a letter which I have received from the Commissioner of the Capitol, relating to the present unsanitary condition of the Capitol. It would seem, from the statement of facts therein presented, that the subject demands the immediate attention of the Legislature, and I respectfully recommend that ample provision for the necessary repairs be made without delay. A continuance of present conditions may endanger the lives of the occupants of the building.[26]

ROSWELL P. FLOWER."

STATE OF NEW YORK:
NEW CAPITOL,
OFFICE OF THE COMMISSIONER,
ALBANY, *March* 21, 1894.

Hon. ROSWELL P. FLOWER, Governor of the State of New York:

Sir.— Knowing that the plumbing of the Capitol was in a very dangerous and unsanitary condition, endangering the lives of the occupants of the building, I have prepared thorough plans and elevations showing all the plumbing throughout the structure, from the basement to the attic, and to satisfy myself and others of the exact condition of the plumbing, have employed Henri D. Dickinson, a sanitary engineer of New York city, who has had great experience and consequently has a thorough knowledge of his business. Mr. Dickinson has made a thorough examination of the plumbing, drainage, etc., and has prepared a statement, the results of which demand that immediate and skillful attention be given to the plumbing and drainage of the Capitol building.

The western section of the building is warmed by taking air through ducts located under the basement bottom to the various heating stacks, where it is warmed and discharged through the heating flues to the rooms. This plan obviates the danger which exists in the other portions of the building.

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[26] The supply bill of 1895, chapter 932, appropriated $11,750 for plumbing in the capitol.

The system of heating in the other portions of the structure is by discharging the air from the heating chambers into the open basement, where it is taken up together with the foul air and discharged into the various apartments through flues.

In due consideration for the health of the occupants of the building, this condition should not exist, as it endangers life. From the fact that the basement is used for a hot-air chamber, from which the air is drawn to warm the apartments in the several stories above, it should be absolutely free from any water-closets or any other apparatus which could possibly generate foul air and thereby contaminate the warm air supply.

The report herewith submitted is a thorough statement of the condition of the plumbing in the Capitol, and I most earnestly urge that proper means be taken to thoroughly overhaul the plumbing, and do all necessary work required to put the building in a thoroughly sanitary condition.

The defects in the plumbing are mainly due to the fact that a large portion of it has been in constant use from ten to fifteen years, which is about as long as the best of plumbing can be relied upon. The improvements in plumbing since that time have been very great, and it would seem as if the State should avail itself of the best and most approved plumbing apparatus. I would most respectfully suggest that an appropriation of $20,000 be made for the replumbing and drainage. This sum will make correction of that portion of the plumbing and drainage that is dangerous to health.

Respectfully,
I. G. PERRY,
Commissioner.

March 26. To the Senate:

Veto of a bill entitled "An act to amend and make additions to chapter four hundred and sixty-three of the Laws of eighteen hundred and sixty, entitled 'An act to revise the charter of the city of Oswego,' and the acts amendatory thereof."

"This bill is a step backward in the science of government. It is founded upon the assumption that the people cannot be trusted to govern themselves. It proposes to substitute aristocracy for democracy; to substitute government by an oligarchy for government by the people. It confers absolute powers of appointment and removal, capable of being abused despotically and selfishly, upon a few men selected by electors chosen by the people, in place of the limited powers of public servants elected directly by the people themselves. It is essentially English rather than American. It would establish in city government a small body of men, like a House of Lords, sufficiently large to prevent a sense of individual responsibility, and yet small enough to form a compact ring. The system of choosing public officers selected by electors elected by the people is either an empty form, as in the case of our presidential electors, or is an oligarchical despotism, as was the case in the ancient cities of Greece.

The following is a brief outline of the plan of city government proposed by this bill:

The registered voters in each ward are to be divided by lot into sections of as nearly seventy-five each as may be. Each section is to meet in its own ward and choose a 'representative elector' of the section who shall be a voter of the ward, but not a member of the section choosing him. The same 'representative elector' may be chosen by all the sections in his ward, except his own, in which case he shall have as many votes in the electoral colleges to be established, as there are sections choosing him. The minimum number of 'representative electors' for each ward will, therefore, be two, and the maximum number will vary as indicated by the last registry in Oswego, from three to ten. The 'representative electors' of each ward constitute the ward electoral college, and are to appoint and remove at pleasure the alderman of the ward and other ward officers except supervisor, each elector having as many votes as there are sections choosing him. The 'representative electors' of all the wards meeting together (not less than sixteen and not more than fifty-four, as indicated by the last registry) constitute the city electoral college, and are to appoint and at pleasure remove the mayor, recorder, city clerk, city attorney, city surveyor and other city officers except justices of the peace.

The first election of representative electors in each ward is to be held in January, 1895, the second in January (or March), 1896, and thereafter biennially.

One-half the members of any section may call a meeting of the section at any time and remove its representative elector, or deprive him of its one vote in the electoral colleges, and choose another elector in his place.

The bill is not clear as to the terms of office of the officers other than representative electors, but it seems to be implied that the terms of office of those chosen in January, 1895, shall be one year, and of those chosen thereafter shall be two years, although the bill allows the inference to be drawn that it was the intention of the framer that the tenure of the city officers, other than representative electors, shall be for life, subject to removal at any time, by the ward college of a ward officer, and otherwise by the city college.

There are numerous minor defects in the bill which would preclude my signing it in its present form, even if I approved its general theory. Without attempting to enumerate them all, the following are so serious as to be worthy of mention:

1. The time when notices shall be mailed to the members of each section to meet for the purpose of choosing a representative elector is left indefinite, and may be any time during a period of several days, and then the section may suddenly be called together to choose their ' representative elector ' on two days' notice by mail.

2. All meetings for the election of representative electors are to be held at three o'clock in the afternoon, and are required to be held open for only one hour. This would be a great inconvenience both to employers and employees.

3. The law on its face requires a registry of all names registered at the preceding registry, without corrections for changes occurring by death or removals since.

4. It is difficult to extract any meaning from the last clause of the following sentence in section 20 of the bill: ' The election proceedings ordered in this act shall be repeated annually for two years *hereafter,* and afterwards each second year only; but the date of their beginning shall be the first Monday in March, *instead of the day of the enactment of this act as now.'*

It cannot be expected that the city college of electors will ever number more than twenty or thirty, and it will be possible for the ' representative electors ' of three out of the eight wards to have a majority in the college. The absolute power of removal of mayor, recorder and other city officers, by so small a number of men as might constitute such majority, opens tremendous possibilities of ring rule, and would make the mayor, recorder and other city officers subservient lackeys to the ring, instead of responsible and independent officials.

The bill provides that the electors shall serve without compensation, but it would not be long, judging from experience in local legislation, before the Legislature would be called upon to amend the charter again so as to permit the payment of salaries to these representative electors.

I have not yet lost faith in the Jeffersonian theory of government. There seems to be particularly prevalent just now an epidemic of municipal reform by indirect efforts. These efforts aim to bring about political millenniums by legislation or by the substitution of new-fangled theories of government for those upon which the American people have been educated. They all practically involve the assumption that local self-government is a failure.

I do not know of any conspicuous municipal evil which cannot be remedied under our existing constitution and laws if the people of that municipality desire to remedy it. But the present tendency is, when public officers are derelict or municipal matters go wrong, to rush to the Legislature and change the municipal charter; and when this is accomplished, the custodians of public virtue who have accomplished it, relapse once more into political drowsiness and are not awakened until other visions of maladministration disturb their slumbers, whereupon they rush again to the law-making power and seek reform again by indirection. No charter tinkering or legislation of any kind can, of itself, make men honest or bring good municipal government. These results cannot be accomplished by any shifting of personal political responsibility from the individual to his neighbor, to the Legislature or to any outside authority. When every good citizen and taxpayer takes an active interest in securing good government, then good government will come, but not before, and all attempts to reach a political millennium by any other route than this simple and straightforward path will fail."

The bill was not passed over the veto.

March 26. To the Assembly: Transmitting the annual report of the Health Officer of the Port of New York.

March 28. To the Senate:

Veto of a bill entitled "An act to amend chapter five hundred and fifty-five of the Laws of eighteen hundred and sixty-four, entitled 'An act to revise and consolidate the general acts relating to public instruction.'"

"I do not think the partnership authorized by this bill, between academies and union free schools, would be desirable, and there is danger that it would lead to bad results." *

The bill was not passed over the veto.

March 28. To the Assembly:

Veto of a bill entitled "An act to amend the Code of Civil Procedure, relative to action by a taxpayer against a public officer."

"Under the present general law the Attorney-General has ample power to protect the interests of the State against any adverse action by its servants. I do not see the necessity, therefore, for this legislation, and it might embarrass the State in the proper transaction of its business."

The bill was not passed over the veto.

March 29. To the Assembly:

Veto of a bill entitled "An act to amend chapter five hundred and eighty-three of the Laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interest in the city of Brooklyn,' relating to supplies and repairs for the department of fire and the department of police and excise."

"This bill relates to the purchase of supplies by the department of police and excise, and the department of fire, in the city of Brooklyn, without advertisement, when the expense thereof shall not at any one time exceed the sum of one thousand dollars. The measure substitutes the consent of the mayor for that of the common council as a necessary requisite to the purchase of such supplies. No satisfactory reason has been advanced before me why this power should be taken away from the common council, and my own judgment is that the tendency in recent years to deprive boards of aldermen of powers formerly bestowed upon them has been a positive detriment to municipal government by discouraging competent men from assuming the position of alderman."

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* The consolidated school law, chapter 556, enacted at this session, repealed the general act of 1864, chapter 555. The new law authorized the adoption of academies as academic departments of union schools, and the lease of such academies for that purpose.

The bill was not passed over the veto.

March 29. To the Assembly:

Veto of a bill entitled "An act to legalize the acts of Thomas W. Cantwell, as notary public."

"Such acts as this tend to make public officials careless in the discharge of their duties. A notary public ought not to forget or be ignorant of the time of the expiration of his term of office. Such special legislation to correct the carelessness of notaries is inimical to the public interests."

The bill was not passed over the veto.

March 29. To the Assembly:

Veto of a bill entitled "An act to regulate the formation of school commissioners' districts in counties having cities in which there is a board of education."

"The first section of this bill is substantially a re-enactment of chapter 414 of the Laws of 1883, which the Supreme Court at Special Term has held was void as an independent act.[d] It is questionable, however, whether boards of supervisors should have the powers here proposed to be conferred upon them.

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[d] People ex rel. Strough v. Canvassers (1894), 143 N. Y. 84.

The chief objection to the bill, however, is that contained in the second section, which legalizes and confirms the acts of any board of supervisors assumed to have been done pursuant to chapter 414 of the Laws of 1883. This provision is in effect an attempt to legalize the action of the board of supervisors of Jefferson county, a year or more ago, in redistricting the school commissioner districts of that county. The Special Term of the Supreme Court has declared the action of the Board to have been illegal, and an appeal from that decision is now pending in the General Term of the Supreme Court. Laws ought not to be enacted, as a rule, to affect pending litigation."

The bill was not passed over the veto.

March 30. To the Assembly: Transmitting the annual report of the Comptroller of the Sailors' Snug Harbor.

April 2. To the Senate:

Veto of a bill entitled "An act to amend the banking law."

"This bill is a covert attempt to give certain existing moneyed corporations all the broad powers of trust companies without compelling them to incorporate as trust companies. It is a species of indirect and possibly quite dangerous legislation. It provides that 'every moneyed corporation heretofore incorporated by a special law, with power to receive deposits of moneys at interest and to issue bonds' shall possess all the powers of trust companies.

The general corporation law defines moneyed corporations as all corporations formed under or subject to the banking and insurance laws. This would include banks, savings banks, safe deposit and insurance companies. If any of these financial institutions happened to have been incorporated by special laws with power to receive deposits of money at interest and to issue bonds (and it is known that some of them were thus incorporated) this sweeping amendment would practically convert them into trust companies. Certain insurance companies, mortgage companies and banks could thus enjoy all the privileges and powers of trust companies.

Such legislation not only lacks the conservative safeguards which ought to characterize all financial law-making, but violates sound principles of corporate legislation. There is already a general law for the incorporation of trust companies. If special corporations wish to acquire trust company powers and privileges, they should incorporate under that general law and be subject to its restrictions and requirements. Particularly should unnamed special corporations not be favored by somewhat blind provisions of law. That kind of legislation is both unjust to similar companies which have organized under the general banking and insurance laws and unfair to the public, inasmuch as it conceals the beneficiaries of this legislative favoritism.

I am convinced that however advantageous this amendment may be to the corporate interests which it affects, it is adverse to the interests of the people.''

The bill was not passed over the veto.

April 2. To the Assembly:

Veto of a bill entitled "An act to amend the public health law relating to rules and regulations of the State Board."

'' This bill makes two changes of importance in existing law.

First. It makes the rules of the State Board of Health for the protection of potable waters from contamination inoperative in any county, unless approved by the county judge after at least thirty days' notice to local boards of health in the towns in which the potable waters are situated. This weakens the powers of the State Board and might, at times, impede seriously its efforts to prevent epidemics of disease. It is quite essential to the protection of the public health that the State Board should possess broad powers, and that the exercise of these should not be hampered unwisely.

Second. When rules of the State Board are violated and the local board of health fails to enforce obedience to them, the municipality deriving its water supply from the waters to which the rules relate, or the corporation furnishing the supply, is deprived of any statutory right to seek an injunction restraining persons from a continued violation of the rules. In that case, according to this proposed bill, the aggrieved party could sue for the penalties of a violation of rules, but could not prevent by injunction a continuance of the nuisance or cause of contamination. This would practically nullify any rules of the State Board of Health, and might expose people of municipalities to great danger from the contamination of their water supply without leaving them any ready means of redress.

This bill is a step backward in sanitary legislation, and should not become a law.''

The bill was not passed over the veto.

April 2. To the Assembly:

Veto of a bill entitled "An act to ratify and confirm the acts of Alanson J. Prime, as commissioner of deeds of the city of Yonkers."

'' I refused to approve the other day a bill ratifying and confirming the acts of a notary public performed after the expiration of his term of office. The same reasons which I gave for that disapproval apply with equal force to this bill and to those reasons the Assembly is respectfully referred.''

The bill was not passed over the veto.

April 2. To the Assembly:

Veto of a bill entitled "An act to legalize the official acts of Charles F. Curtis, a duly elected justice of the peace, and authorize him to execute and file his official bond."

"Chapter 96 of the laws of the present year makes this bill unnecessary."

The bill was not passed over the veto.

April 2. To the Assembly:

Veto of a bill entitled "An act to amend the county law in relation to the salaries of the county judge and surrogate of Suffolk county."

"When distress is so prevalent as at present, and so many persons are out of work, it is a bad time to increase the salaries of public servants. I did approve, recently, a bill increasing the salary of the judge of Delaware county, but not until after every member of the board of supervisors had filed with me a request for such approval."

The bill was not passed over the veto.

April 2. To the Assembly:

Veto of a bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Linus Jones Peck and Company, or the survivor of said firm, or his executors, administrators or assigns, for stone delivered and for cutting stone in performance of two certain contracts made by said firm with the State for furnishing stone and cutting the same for the erection of the buildings of the Buffalo State Asylum for the Insane, and to make an award thereon."[27]

"This claim bears the signs of age and disappointment. It arises out of contracts between the Board of Managers of the Buffalo State Asylum for the Insane and Linus Jones Peck & Co., for furnishing and cutting stone for the construction of the asylum about twenty years ago. All the claims arising out of these contracts have been settled by the courts, and the State has contended that payment has been made in full for all work done and supplies furnished, including ample damages for a breach of contract, but each year's legislation reveals fresh attempts to revive the claims in one shape or another, and this bill is the latest indication of that disposition.

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[27] This bill was not passed over the veto, but the next year, 1895, a bill, authorizing the board of claims to hear the claim of Linus Jones Peck & Co., was passed and became a law, chapter 254, on the 6th of April. See Governor Morton's memorandum accompanying the bill, *post*, p. 600.

As to this particular claim the facts are these: The claim was filed with the Board of Claims in 1890, and an award of $35,878.78 was rendered; the State appealed and the Court of Appeals reversed the award, holding that if the claimant was entitled to recover anything, it became due about 1876 or 1877, and assuming this to be true, the claim was barred by the statute of limitations long before it was filed with the Board of Claims. After this decision the Board of Claims gave a new trial and subsequently dismissed the claim.[e]

Under the provisions of article 7, section 14 of the Constitution, neither the Legislature nor any person or board acting on behalf of the State, can revive a claim or waive the statute of limitations, and the purpose of the bill under consideration is evidently to do this very thing. This would seem to be in contravention of the Constitution. In addition to this radical defect, the bill has no merit of equity."

April 4. To the Senate:

Veto of a bill entitled "An act to release to Michael Sullivan and Margaret Sullivan all right, title and interest of the people of the State of New York, in and to certain real estate in the city of Brooklyn, county of Kings and State of New York."

"This apparently is an escheat bill, although there is nothing in the bill itself to show whether the interest of the

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[e] Peck v. State (1893), 137 N. Y. 372.

State which is therein released was acquired by escheat, foreclosure or purchase. Moreover, if the property described was acquired by escheat, there is nothing on the face of the bill to show why the object desired can not be attained under the general law for similar cases.''

The bill was not passed over the veto.

April 5. To the Senate:

Veto of a bill entitled "An act to provide for the construction of a public building in the village of Port Jervis, Orange county."

" This bill is long enough almost for a village charter. Although it merely provides for the construction of a public building, it consists of 280 printed lines. Nine-tenths of the verbiage is unnecessary and would encumber the statutes. This of itself would justify its disapproval, but in addition it violates the spirit, if not the letter, of the Constitution, by naming the commissioners in the bill. Article 10, section 2 of the Constitution says: 'All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as the Legislature may direct.' ''

The bill was not passed over the veto.

April 5. To the Senate:

Veto of a bill entitled "An act to amend section one hundred and seventy-eight of the town law as amended by chapter two hundred and ninety-seven of the Laws of eighteen hundred and ninety-three."

" The town law makes the compensation of town assessors uniformly two dollars per day in all the towns of the

State. I do not know why an exception should be made for the town of Brighton, Monroe county, as is provided in this amendment, and the compensation for assessors there be increased to three dollars per day. The bill is special legislation without any apparent excuse to justify it.''

The bill was not passed over the veto.

April 5. To the Assembly:

Veto of a bill entitled "An act to authorize the city of Buffalo to issue a bond or bonds for the purpose of raising money with which to redeem an outstanding bond for two hundred thousand dollars."

'' The bill is unnecessary. Its purpose can be accomplished without special legislation under section 7 of the General Municipal Law, as amended by chapter 466 of the Laws of 1893.''

The bill was not passed over the veto.

April 5. To the Assembly:

Veto of a bill entitled "An act to amend chapter two hundred and nineteen of the Laws of eighteen hundred and seventy-four, entitled 'An act authorizing Erminda O. Goodwin to continue a ferry across Seneca lake.'"

'' This is unnecessary special legislation. The county judge already has power to extend this ferry franchise for a period of five years, and that ought to be long enough for a single grant.''

The bill was not passed over the veto.

April 5. To the Assembly:

Veto of a bill entitled "An act to amend the county law, relative to the general powers of the board of supervisors."

'' In its present shape this bill would be a nullity even if enacted, for it contains no provision for a penalty for peddling without a supervisors' license. Therefore, if signed, it would impose on counties the unnecessary expense of advertising the regulations of the board of supervisors governing the issue of licenses for peddling, and would bring no money to the county treasury if peddlers choose to ignore the regulations. Even did these objections not exist, I cannot see any particular necessity for the bill's enactment."

The bill was not passed over the veto.

April 5. To the Assembly:

Veto of a bill entitled "An act to amend 'An act to incorporate the Troy Female Seminary.'"[28]

"Whatever may have been the practice in 1837, at the time of the incorporation of this seminary, it seems to me that it is no longer consistent with principles of wise legislation that the Legislature should undertake to name the trustees of a private corporation. The exercise of this power in this bill is the reason for my refusal to permit the measure to become a law. The proposed increase in the number of trustees (from fifteen to seventeen) can be accomplished by the Membership Corporations Law now pending in the Legislature, if the same shall be enacted, as seems likely."

April 6. To the Assembly:

Veto of a bill entitled "An act to amend the Code of Civil Procedure, relating to practicing attorneys in New York, Kings and Queens counties."

"By the present law any person may practice law in the lower courts not of record in this State, although not an admitted attorney, except in New York and Kings counties, which are excepted from the general rule in this respect by section 63 of the Code of Civil Procedure. This bill proposes to extend such exception to Queens county, so that laymen shall not be permitted to practice law in Justices' Courts and other inferior courts not of record in that county.

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[28] This bill was not passed over the veto, but another bill was passed at this session, 1894, chapter 372, increasing the number of trustees of the Troy Female Seminary, and authorizing the board of trustees to appoint the additional number, and also to fill all vacancies.

Queens county is not exceptionally constituted like New York and Kings counties. Justices' courts are peculiarly the people's courts in which neighbors are allowed to assist each other without the necessity of calling upon lawyers.

There does not appear to be any sufficient reason why Queens county should be excepted from the practice which has prevailed so long and is upon the whole satisfactory to all the other counties of the State similarly situated."

The bill was not passed over the veto.

April 6. To the Assembly:

Veto of a bill entitled "An act to legalize assessments for local improvements in the city of Amsterdam, and to authorize reassessment therefor."

"The substantial feature of this bill, so far as I am able to ascertain from a perusal of its provisions, is that it practically deprives property owners against whom assessments have been illegally levied from any legal redress. The bill provides for reassessment by the common council of void taxes and assessments that have heretofore been levied for street improvements in the city, no matter how flagrant may have been the violations of law by which they were imposed, how regardless of the wholesome restrictions of the city charter, or how grossly unjust they may be against the property owners affected thereby; and such assessments, when made and confirmed by the common council, shall, according to the provisions of this bill, ' be final and conclusive on all parties and persons interested, both as to merits and amount of such assessment, and the right and power of the common council to cause it to be made.' There would, therefore, be left to the property owners and taxpayers, whose rights have been invaded in violation of law, no redress whatever, though the reassessment imposed against them was grossly excessive and unjust.

This in itself is sufficient to condemn the bill, but, besides, the bill is crudely drawn and contains minor defects which furnish additional reasons for its disapproval."

The bill was not passed over the veto.

April 6. To the Assembly:

Veto of a bill entitled "An act to amend the Code of Civil Procedure relating to fees of justices of the peace."

" This bill practically doubles the fees of a justice of the peace for performing a particular service. He now gets twenty-five cents for receiving and entering the verdict of a jury, and twenty-five cents for entering judgment. By section 3140 of the Code of Civil Procedure, he must now enter a judgment in his docket book, and by this proposed amendment he would receive an additional fifty cents for no additional service. I do not think this is right, and am opposed to increases in justices' fees at the present time. Our courts already cost too much."

The bill was not passed over the veto.

April 9. To the Senate:

Veto of a bill entitled "An act to amend chapter three hundred and fourteen of the Laws of eighteen hundred and fifty-eight, as amended by chapter four hundred and eighty-seven of the Laws of eighteen hundred and fifty-nine, entitled 'An act to declare and extend the powers of executors, assignees, receivers and other trustees, and to protect the rights of creditors and others against frauds, and for other purposes.'"[29]

"I fear this amendment would broaden too much the scope of the present statute, and that its effect, while affording desirable relief in some cases, might be to encourage fraudulent transfers of property."

April 9. To the Assembly:

Veto of a bill entitled "An act to amend the public health law."

"The law now provides, and has for several years provided, that no person shall practice veterinary medicine and surgery as a profession unless he has been duly registered pursuant to law, or unless he is a graduate of a legally chartered or incorporated college or university, or unless he holds a certificate of qualification from a legally incorporated veterinary society. These requirements have been established as safeguards against malpractice by incompetent persons claiming to be veterinarians. The amendment proposed by this bill, however, would practically legalize all violations of these requirements during the three years preceding January first, next, and would admit to legalized standing as practitioners, all persons who during these three years have practiced veterinary medicine and surgery, no matter how unfitted for this practice the persons might be.

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[29] This bill was not passed over the veto, but another bill, regulating proceedings to set aside fraudulent transfers, was passed and became chapter 740, approved May 21.

As to the general policy of the State exercising such powers of restriction as are contained in the present law relating to the practice of veterinary medicine and surgery, it is not necessary to express an opinion in considering this bill. The only question presented is whether the policy heretofore adopted by the State and incorporated in law should be set aside temporarily in the interest of a few individuals, as would be the effect of this proposed amendment. If the present law is bad or unwise, it should be repealed directly, but not nullified indirectly. If it is essential to the protection of the public from imposition, it is as essential now as it will be after January first, next. The amendment partakes too much of the character of special legislation for the benefit of a few persons."

The bill was not passed over the veto.

April 11. To the Legislature:

"Executive Chamber,
Albany, *April* 11, 1894.

"There has been pending before your honorable body for more than ten weeks a bill (Senate bill No. 846) which is of vital importance in the maintenance of the Adirondack Park. It is a measure which is intended to correct an oversight in chapter 711 of the Laws of last year, relative to the sale and redemption of land sold for taxes, and its passage has been strenuously urged by the forest commission and by others interested officially or otherwise in the protection of our forests.[30]

So essential to the cause of forest preservation do I regard this bill that I take this means of bringing it again to your attention and of urging its speedy enactment. The facts occasioning its introduction are by this time generally known. By numerous tax sales in years gone by the State has come into possession of about 900,000 acres of forest lands. Through cancellations of tax sales, however, permitted by the loose phraseology of the law, thousands of acres have been reclaimed by private individuals or timber and land speculators, and to-day there are on file in the Comptroller's office over 300 additional applications for the cancellation of tax sales, covering about 150,000 acres of Adirondack land. Unless the defect in chapter 711 of the Laws of 1893 above alluded to is corrected, the State is likely to be deprived of this great area of forest land, and eventually of a large proportion of its Adirondack holdings.

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[30] The provision in the act of 1893, chapter 711, referred to by the Governor, relative to the redemption for tax sales by the comptroller, was included in the tax law of 1896, chapter 908, section 127.

A year ago I had occasion by special message* to call the attention of the Legislature to the same condition of affairs which existed then as now, and my suggestions met prompt legislative response by a proper amendment to the law, which became chapter 398 of the Laws of 1893. Unfortunately, however, this amendment failed to be included in a revision of laws relating to the sale and redemption of land sold for taxes, which was pending in the Legislature at the same time and subsequently became chapter 711, and the good effect of the amendment was consequently nullified. It is to restore this legislation to its proper shape that the bill which is now before you, and to which I would call your attention, has been introduced.

Although the State's interest in this legislation is manifest, and every consideration of public interest would seem to demand its enactment, mysterious influences appear to retard its passage. If this legislation should fail, the partial destruction of the Adirondack park would be threatened and State forest lands would be turned over to the devastation of lumbermen. A few Adirondack land or timber speculators would secure from the Legislature favors denied to the six and a-half million people whom the Legislature is

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*[*Ante*, p. 218.](#)

supposed to represent. That would be a perversion of duty and official responsibility which would justly bring reproach upon the people's representatives. I sincerely trust that the Legislature will not allow any adverse influences to defeat the passage of this bill at the present session. It is a measure of great public importance and its defeat would be a calamity to be regretted by every friend of forest preservation.

ROSWELL P. FLOWER."

April 12. To the Senate:

Veto of a bill entitled "An act to incorporate the Metropolis Finance Company of New York."

"With the exception of the name of the company to be incorporated and the incorporators, this bill is exactly similar to a bill which I vetoed last year. I cannot better state my reasons for opposing it than to repeat what I said in disapproving the bill last year. These reasons were as follows:*

'In addition to the powers granted to this company to guarantee contracts, it is also authorized by this bill to do a trust company business with the following advantages over trust companies incorporated under general law:

'1. Its capital is placed at $100,000. Other trust companies in the city of New York are obliged to have a capital of at least $500,000.

'2. It can invest its capital in any securities it sees fit. Other trust companies are obliged to invest in permanent securities.

'3. It is relieved from the operation of the usury laws. Other trust companies are subject to the usury laws.

'4. The stockholders of this proposed company are only individually liable for the amount of stock held by them

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**Ante*, p. 256.

respectively. Stockholders in other trust companies are individually liable not only for the amount of stock subscribed by them, but for a corresponding amount in addition thereto.

'There are other provisions of the bill whereby the company is relieved from obligations imposed upon other trust companies. The last trust company incorporated by special charter was in the year 1884. All companies organized since 1884 have been incorporated under the general act. I see no reason why special legislation conferring unusual advantages should be bestowed upon this corporation.'"

The bill was not passed over the veto.

April 16. To the Senate:

Veto of a bill entitled "An act to provide and maintain a nautical school for the State of New York, and to merge therein the present nautical school maintained by the board of education of the city of New York."

"This bill creates another State board and fastens upon the State an additional annual expenditure of indefinite amount. As I pointed out in vetoing a similar bill last year, there is no good reason why the State should undertake the establishment of a nautical school.*

The sum of $20,000 is appropriated for carrying out the purpose of the bill. That the amount is insufficient is clearly shown by the fact that the annual cost of the present nautical school in the city of New York, which it is intended to turn over to the State, is in excess of this amount, and by the further fact that the advocates of the bill have heretofore declared that a permanent annual appropriation of $40,000 would be necessary for the proper maintenance of the school. Their estimate is not likely to have been too extravagant. The enactment of this bill, therefore, would mean a continuous drain on the State treasury for a doubtful public purpose.

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*Ante, p. 256.

The bill is further objectionable in that feature which makes admission to the school depend upon political influence, for under its provisions no pupil is eligible to the school unless he is recommended by some Senator or Assemblyman. This would introduce at once into the school the worst feature of what is called ' the spoils system.' It would seem as if here was a particularly good opportunity for the application of the merit system, for admission to such an institution ought by all means to be by competitive examination. Then its privileges would be open to all who were worthy to enter, and would not be confined to the political or personal favorites of legislators."

The bill was not pased over the veto.

April 16. To the Assembly:

Veto of a bill entitled "An act to authorize the procuring of new grounds and the erection thereon of buildings for the use of the College of the City of New York, and to provide the means to pay for the same."

" This bill is the most flagrant violation of the principle of Home Rule that has passed the Legislature in many years.

Bills have occasionally been passed which restricted the powers of municipalities, which foisted on them officers not of their own choosing, or which improperly interfered with local authorities in the discharge of their official duties,—but of all bills directed against local self-government none embodies so tyrannical an exercise of legislative power, none is so violative of ordinary principles of justice toward municipalities, none is so direct and uncalled for an invasion of Home Rule as that which arbitrarily inflicts upon a municipality a burden of taxation for local purposes against the will of the municipality as expressed through the people or through the officers who are endowed by the people with the authority to impose taxation upon them.

That is what this bill does. It is an arbitrary exercise of legislative power to compel the taxing authorities of New York city to add at least $1,175,000 to the burden of taxation upon the people, irrespective of whether the people, or their representative officers chosen for such purposes, favor it or not. No bill of that mandatory character ought ever to become law so long as the principle of local self-government is a fundamental feature of our political system.

It does not relieve the iniquity of this mandatory legislation that the purpose sought to be accomplished in aid of a worthy institution is laudable, or that it is supported by many prominent citizens of New York, including many who have been conspicuous in the championship of Home Rule for other cities. I cannot believe that these persons thoroughly understood the bill's mandatory character. But it would be discourteous to the Legislature to assume that its members did not comprehend the nature of the bill, even were not the contrary assumption proven by the fact of the bill's being recalled at my suggestion to have its provisions made permissive and its being returned to me again without change. This insistance upon a measure so arbitrary and so unjust in form makes the Legislature's defiance of the Home Rule theory all the more significant.

In returning the bill without my approval, I do not wish to be considered as opposing any proper effort to extend the influence and work of the College of the City of New York. The institution fills an important place in the educational system of the city, and the people of New York may well feel a just pride in its proper maintenance and development, but I do wish to enter an earnest protest against the dangerous precedent which would be established by the enactment of this bill in its present mandatory form. If the

Legislature can with propriety exercise its power to tax the people of New York over a million dollars for a local purpose against their consent, or that of their taxing authorities, it can with equal propriety arbitrarily tax the people of any other municipality against its will, and we should witness a recurrence of tyrannical abuses of the taxing power similar to those to which we owe our present national independence and our present system of local self-government. Such legislation would not be tolerated for an instant in these days among self-respecting municipalities.

The action of the Legislature in making this bill mandatory is the more subject to criticism in view of the fact that while willing to compel the city of New York to expend over a million dollars for higher education, the Legislature has thus far refused to pass a permissive bill desired by the local authorities of New York authorizing them to expend $1,500,000 in providing common school accommodations for the thousands of children who are now applying for admission and for whom there is no seating capacity. To deny the local authorities of New York the power to provide these accommodations is no less reprehensible than to compel them to spend a million dollars against their judgment of what is best for the city's interests. The first essential thing in public education is abundant common school facilities; after that the question of free higher education may properly be taken up. But the Legislature has reversed this salutary rule, and has made its reversal the more obnoxious by a flagrant violation of Home Rule in the one case and an unreasonable withholding of it in the other."

The bill was not passed over the veto.

April 18. To the Assembly: Transmitting the report of the General Managers of the exhibit of the State at the World's Columbian Exposition.

April 18. To the Assembly:

Veto of a bill entitled "An act to release the interest of the people of the State of New York in certain real estate in the town of Johnstown, Fulton county, to Lydia Dickson."

"The purpose of this bill can be accomplished under existing general law, and a special statute is, therefore, unnecessary."

The bill was not passed over the veto.

April 19. To the Senate:

Veto of a bill entitled "An act to repeal chapter seven hundred and fifty-six of the laws of eighteen hundred and seventy-one, entitled 'An act to prevent the deposit of carrion, offal or dead animals in the North and East rivers, or in the Bay of New York, or Raritan bay, within the jurisdiction of the State of New York,' and the acts amendatory thereof and supplemental thereto."

"The effect of this bill is to repeal all the statutes which have been passed for the protection of the shores and bay of New York and the seaside resorts near New York and Brooklyn, from deposits of carrion, offal, dead animals, bedding, decaying or refuse vegetable and animal matter, sludge acid, refuse oil, city garbage or other similar matter which is a menace to health and a discomfort to residents or visitors along the shores described. The various acts have been passed at different times during the last twenty-three years, and all have been designed to broaden and strengthen the requirements of the original statute, showing conclusively that public sentiment has sustained this effort by legislation to protect the health of the people of the localities affected and to keep the shores clean from offensive matter.

To repeal all these desirable provisions of law, as is proposed by this bill, would expose the residents of Long Island, Staten Island, Westchester county and New York, to disease contamination, to say nothing of innumerable nuisances caused by the objectionable matter thrown upon the shores. It is not surprising that they object to this measure, and I have received petitions signed by hundreds of these residents, and by the managers and owners of the principal seaside resorts and of the railroads running thereto, urging me to withhold my approval from the bill.

The bill removes so necessary a statutory safeguard of the public health that I am astonished at its passage in the Legislature. The fact that it was introduced by a Senator from the northern part of the State, and was passed against the earnest protest of most of the representatives of the locality affected, would seem to indicate that its probable effect was not fully appreciated by those most active in promoting its passage, who, necessarily, by reason of their residence in the rural sections of the State, could not be expected to have full knowledge of the importance of the laws sought to be repealed. I am the more constrained to this opinion by reason of the fact that I have to-day approved a bill introduced in the Assembly by the leader of the majority, which extends practically the same wise provisions of law to the Oswegatchie river in St. Lawrence county, with a view to preventing the pollution of the waters of that stream. If it is wise to prevent the deposit of dead animals or nauseous substances in the Oswegatchie river, how much wiser is it to have a similar law for the waters of New York Bay? The Legislature might, with equal propriety, abolish the salutary provisions of law which are designed to protect the public health throughout the entire State as to repeal these laws for the protection of health around New York Bay. The question of the expense of maintaining the enforcement of the laws proposed to be repealed could not have influenced the action of the Legislature, for this cost is not paid by the State but by the counties of New York, Kings, Westchester, Queens and Richmond, and the public sentiment of those localities overwhelmingly sustains the continuance of the laws.

Only two arguments have been advanced for the repeal of these safeguards; first, that the present shore inspector, who is charged with the enforcement of the laws does not faithfully discharge his duty; and, second, that the laws are made unnecessary by the federal statute passed in 1888. The first of these reasons is certainly not sufficient. Bad administration does not justify a repeal of good laws. Whether the shore inspector performs his duty properly or improperly, the laws under which he is appointed are essential to the maintenance of the public health and should be retained. If the officer is not discharging his duties properly, the Senate can remove him upon the recommendation of the Governor. But no charges of any kind have been filed with me against him.

Neither is the second argument, which has been advanced in behalf of this bill, any more reasonable, namely, that the State law is made unnecessary by the federal statute of 1888. The two are entirely different in purpose. The State law is intended primarily for the protection of the public health; the federal law is intended chiefly to prevent deposits in the channels of navigation. The two do not conflict, and the existence of the federal law in no way justifies a repeal of the State law.

It seems to me that the measure under consideration is extremely short-sighted in policy, and I am sure it is not desired by the people who live in the localities which its enactment would affect. It cannot be possible that the Legislature would knowingly expose these localities to a scourge by some dread disease which might readily be communicated by contaminated bedding or diseased animal matter thrown into the waters and cast ashore among human beings. This danger would be constantly impending if all penal statutes prohibiting such dumping are wiped out, as is proposed by this bill."

The bill was not passed over the veto.

April 19. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *April* 19, 1894.

"The fact that the Legislature is soon to adjourn without date impels me to call your attention to certain suggestions of my recent annual message which remain unacted upon.

One of these related to the removal of superintendents of reformatories and other State institutions. At present these officers are almost without exception removable by the local boards of trustees who are intrusted with the management of the institution. For obvious reasons the local boards of managers may not be so well fitted to pass upon charges affecting their executive officers as would some central authority like the Governor. The power of removal is a wholesome one, and when well guarded against arbitrary or unjust exercise is essential to good administration. If lodged with the Governor, in the case of superintendents of State institutions, or with some other responsible central officer, it would furnish a direct and prompt means of ascertaining the guilt or innocence of the accused, free from possible local prejudices or considerations. Any statute conferring such power should provide that no removal should have effect except upon the formal presentation of charges, and after an opportunity to the accused to be heard in his own defense. The power of appointment to fill vacancies caused by removal should be lodged where it is now, with the local managers.

A case in illustration is that of the New York State Reformatory at Elmira. The law gives the local board of managers of that institution the sole power of appointment and removal of the superintendent. The State Board of Charities, having no power to enforce its conclusions or recommendations, has investigated charges against the superintendent of this institution, and has made a report containing certain alleged findings of fact and recommendations, not to the local board of managers, not to the Governor, but to the Legislature, and the Legislature has taken no action thereon. Thereupon the report of the State Board of Charities is used by private individuals as a basis for preferring charges to me, not against the superintendent, for I have no power of removal over him, but against the local board of managers, whom I am authorized to remove after giving them an opportunity to be heard in their own defense. This opportunity I have given them by appointing a commission of well known and able men to take testimony. The charge against them is substantially that they have retained an unfit man in the position of superintendent, and the determination of their culpability naturally involves the trial of his culpability Thus the whole proceeding is necessarily complicated, while the same object could have been speedily attained by a direct investigation and determination, if the Governor had had the power which I have asked you to give him.

With numerous other State institutions similarly situated a similar condition of affairs may at any time arise, and there would be the same absence of any direct remedy. It is with a view to such possible emergencies that I venture again to call this matter to your attention and urge its favorable consideration. Such a power would never be abused by a conscientious Executive, and it would provide a prompt remedy for maladministration.

I would suggest also in this connection the propriety of legislation authorizing the Executive to require the State Board of Charities to investigate any matters affecting institutions whose managers are Executive appointees, and to report directly to the Executive, to the end that such action may be taken in the premises as he may have power to take. Such investigations by the Board of Charities are now largely voluntary and the report goes to the Legislature, whether its substance calls for legislative or Executive action.

Another subject relating to the Elmira Reformatory to which I called your attention in my annual message and which still remains unacted upon is that of transfers from the Reformatory to the State prisons. I alluded in that communication to the large number of these transfers, a larger number than the law authorizing them contemplated, and I pointed out how these transfers are not only antagonistic to the reformatory idea, but how the effect of them is to inflict upon the transferred convicts the longest term prescribed by the Penal Code for their offenses. The injustice of this is appreciated when it is considered that the prisoners are not old offenders, but are undergoing punishment for their first felony, and that the purpose of sending them to the Reformatory was to administer a light punishment, and, if possible, to effect their reformation. It is quite likely that a court would modify such sentences if it was known at the time that a convict would serve in a State prison most of the maximum term for his offense. This is shown by the letters which I have received from judges and district attorneys in reference to more than seventy applications for pardon now pending before me. All of these applications are those of convicts transferred from the Elmira Reformatory, and all are recommended by the judge and district attorney of the court in which the conviction was secured, on the ground that the convicts have already served sufficient time for their offenses. If I should extend clemency in these cases upon this ground alone, it would tend to injure the discipline in the Reformatory, for convicts could then hope by being refractory to be transferred to State prison, when they could appeal for clemency with many precedents established for its exercise.

In my judgment this system of transfers should be altogether abolished, or else so far modified as effectually to prohibit abuse. The managers ought not to be clothed with the arbitrary power of committing to prison for long terms persons sent by the courts to the Reformatory for purposes of reformation. Transfers, if made at all, should be made only for good cause and upon application to the court in which the person sought to be transferred was convicted, so that the punishment may be properly adjusted, or else such other legal proceedings should be required as may be necessary to prevent injustice. Some legislation on this subject is imperatively needed.

Many of these transfers are rendered necessary by the lack of accommodations at the Reformatory. The reasonable capacity of the institution is now about 1,000 men, but 1,400 are crowded in. Putting two prisoners in a cell is a fruitful source of crime and of violations of discipline, and should be prohibited. Proper provision should be made for relieving the institution of the care of at least 400 inmates and a law should be passed limiting the number of convicts at any one time in the Reformatory to 1,000 or less, and requiring that convicts sentenced to the Reformatory whose admission would exceed this limit should not be received but should be resentenced to another institution. The number of reformatory prisoners can also be reduced by legislation excluding all United States convicts from the Reformatory and by the establishment of new reformatories. [See notes 18 and 19.]

ROSWELL P. FLOWER."

April 20. To the Senate:

Veto of a bill entitled "An act to amend sections nine hundred and ninety-two, nine hundred and ninety-five, nine hundred and ninety-six and nine hundred and ninety-seven of the Code of Civil Procedure, relating to exceptions and case on appeal."

" This bill is unwise, unnecessary and mischievous.

1. The amendment allowing an exception to ' any remark or comment ' of the presiding judge during the trial of any action would have a tendency to put the judge upon trial rather than the controversy between the parties. I can

see no objection to allowing the judge the right which he now has to comment upon the case and the evidence, and thus by his superior experience to guide the jury to a just conclusion. If his remarks or comments exceed the bounds of a reasonable discretion, and improperly prejudice the interests or rights of either party, there is ample remedy now in the law by a motion for a new trial before the general term where relief may be given if there has been a miscarriage of justice.

2. The amendment providing that where a judge or referee who settles or signs a case omits from it any evidence, or any of the proceedings upon the trial, or any ruling, decision, remark or comment with the exception thereto as shown by the stenographer's minutes, or where the judge or referee omits or refuses to allow an amendment to the case which is in accordance with the stenographer's minutes, the party proposing the case or the amendment may, nevertheless, make the portion of the evidence and proceedings thus omitted and the proposed amendments thus disallowed a part of the record to be presented to the appellate court, places the settlement of the case under the control of the stenographer rather than that of the judge or referee. Its effect would ultimately be to make the stenographer's minutes, with all their useless and cumbersome details, the record to be presented to the appellate court, and to place upon that court the burden of determining, as between the judge or referee and the stenographer, any controversy as to the accuracy of the one or the other. The record for review in the appellate court should be settled before it reaches that court, so that the counsel on either side may know upon what record the argument is to be based. There is ample remedy now for the mischief aimed at by motion for resettlement of a case, if anything has been improperly omitted therefrom or inserted therein. (New York Rubber Co. v. Rothery, 112 N. Y. 592.)

The provision that the determination of a judge or referee as to what should or should not be allowed in the record, shall be a ruling on a question of law, is quite far reaching and may be very embarrassing. The present system for settling and preparing a record for review in the appellate court has always been in force in this State, and on the whole has operated satisfactorily. Any rule or system will now and then operate unjustly, but it is believed that the changes proposed by this bill would cause more evils than they would cure.

In changing the law it is well to bear in mind that all change is not reform.''

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of a bill entitled "An act to amend the town law in relation to town meetings."

'' The present law relating to town meetings provides that, if necessary, a meeting may be continued during the next day by a vote of those present, and may be adjourned to another place not more than a quarter of a mile from the place where it was appointed to be held. This bill would strike out this provision and would require that the meeting shall be held during one day only and no longer. I think the present law is preferable to the proposed amendment. By reason of inclement weather, bad roads or some other cause, it may be impossible in some towns to secure a large attendance on the day fixed for the town meeting, and it would seem to be only reasonable that if a majority of those present desire to adjourn the meeting until the next day they should be allowed to do so.''

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of a bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interest in the city of New York,' in relation to the compensation of laborers or employees in the department of public parks."

"The Park Commissioners of the city of New York have now authority to fix the compensation of laborers or employees at such amount as may seem to them just. This bill would limit their authority to fix compensation at more than two dollars a day. I do not think it a wise or necessary measure."

The bill was not passed over the veto.

April 20. To the Assembly:

Veto of a bill entitled "An act in relation to the estate of Elizabeth Dean, deceased."

"This bill is an exact copy of chapter 182 of the laws of the present year. The statute books should not be incumbered by two laws identically the same."

The bill was not passed over the veto.

April 24. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *April* 24, 1894.

"In my annual message to the Legislature, transmitted on January second last, I said:*

'Repeated experience with the recently enacted ballot law has suggested several desirable changes to promote simplicity in voting. The most important change needed is one to

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**Ante*, p. 308.

avoid the multiplicity of ballots placed in the hands of the voter. The present system leads to confusion, mistakes and annoyance. I recommend the adoption of a so-called 'blanket' ballot, with the names upon it so arranged and printed that the elector can easily vote for the candidates of his choice.'

Although nearly four months have elapsed since the transmission of this recommendation, no bill incorporating the suggestion has yet been presented for Executive approval. This delay is unfortunate, for had a bill been passed earlier in the session containing any provisions which the Executive did not approve, there would have been ample time to permit the adjustment of any differences between the Executive and legislative branches of government with reference to the measure, and a law could have been placed on the statute books which would have given general satisfaction to the public. So desirable do I consider the enactment of a measure which will simplify the present method of voting that, considering the lateness of the session and the apparent radical differences between the Senate and the Assembly upon this subject, I am induced to offer some suggestions in advance relative to the two bills now pending in the Legislature, to the end that a wise and good ballot law may be passed and receive my official signature.

The essential difference between the Senate bill and the Assembly bill, as the two now stand, is that the Assembly bill makes no provision for any kind of a paster ballot, while the Senate bill permits the use of a single paster for each office voted for. So far as the aim of a simple ballot is concerned, the Assembly bill in its present shape most nearly coincides with the recommendation of my annual message. But the enactment of such a bill is out of the question. The controversy as to the constitutionality of such a ballot is finally closed by the opinion of some of the most prominent lawyers of New York, published in to-day's newspapers, holding such a ballot law to be unconstitutional. This opinion states so clearly the fundamental features which any ballot law should possess in order to be constitutional that I quote it herewith, together with the names of the lawyers who promulgated it:

'First. Any duly qualified elector has a right to vote for any competent person to fill an office for which a person is to be elected at the election at which he desires to vote, whether or not such person for whom he desires to vote has been so nominated that his name is printed upon the official ballot. Any ballot act which does not afford all voters, whether illiterate or not, an opportunity and reasonable facilities for voting for such a person is unconstitutional.[f]

'Second. If a secret ballot act prescribing an official ballot does not permit the voter to write upon the ballot the name of a person whom he desires to vote for, whose name is not borne upon the official ballot, or to vote for such person by a paster placed upon such ballot, or by some other method, the act is unconstitutional.

'Third. Such a ballot act must enable voters who, by reason of ignorance or physical disability, cannot write, to have the assistance of a competent person to write upon, or to affix to the official ballot the name of a person not borne upon it, but for whom they desire to vote, and that assistance must be allowed to such extent and in such manner, that the illiterate or disabled person may be certain that the name of the person he desires to vote for has been placed upon the ballot; otherwise it is unconstitutional.

'JAMES C. CARTER.
'GEORGE BLISS.
'W. B. HORNBLOWER.
'HUGH L. COLE.
'FRANCIS L. STETSON.
'JOHN F. DILLON.
'JOHN E. PARSONS.
'W. H. PECKHAM.
'ELIHU ROOT.
'JOSEPH H. CHOATE.'

This opinion, coming from such distinguished authority, precludes from consideration any bill which does not permit the use of some kind of a paster ballot. The discussion then resolves into a consideration of the question as to the kind of paster ballot which is best adapted to securing secrecy and simplicity, and which will best promote the exercise of franchise by the ignorant or physically disabled voter.

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[f] Const. 1846, art. 2, § 1, Am. 1874.

The Assembly bill, as introduced by Mr. Sheffield, provided originally for certain official paster ballots to be furnished in the polling place to persons who had previously testified to their physical disability or to their illiteracy, and prohibited all other persons from using any paster ballot whatever. This latter provision would be unconstitutional according to that part of the opinion quoted above which says that 'if a secret ballot act prescribing an official ballot does not permit the voter * * * to vote * * * by a paster placed upon such ballot * * * the act is unconstitutional.' The provision relative to physically disabled or illiterate voters is cumbersome and complicated, and would, for this and other reasons, work a practical disfranchisement, if not an actual one. The worst feature of it, however, is the opportunity it would afford for bribery by its permission to the illiterate to take persons with them into the polling booth. A man who will sell his vote will commit perjury, and it is well known that the provision of the present law relative to assistance to 'physically disabled' voters has been utilized at times to bribe voters by wholesale.

The Senate bill's provisions as to a paster ballot are substantially as follows:

'Any voter may use one or more pasters, each of which shall contain the title of a single office to be filled and the name of one person whose name is not already printed upon the official ballot as a candidate for such office for whom the voter may desire to vote. No single paster shall contain the name of more than one candidate. Such paster or pasters shall be pasted upon the blank margin at the foot of the ballot and not elsewhere, in such manner that no one of them shall project beyond the edge of the ballot; and the ballot shall be counted as a vote for the person whose name appears upon any such paster for the office whose title appears thereon.'

The illiterate voter or any person who desires to vote for names other than those on the official ballot would have to paste the name for each office separately in the blank margin at the foot of the ballot. If he desires to vote an entire ticket whose names are not on the official ballot, as is often the case in independent movements, he has a constitutional right to do so according to the before-mentioned opinion, but according to this bill he must put on a different paster for each office voted for. This unnecessarily restricts and inconveniences him in voting. If he were permitted to apply one blanket paster, including all the names he desires to vote, the operation would be much simpler and there could be no reasonable objection to it. Indeed, if pasting is to be permitted at all, and it must be, it appears, under our Constitution, the same reasons exist for a blanket paster as exist for a blanket ballot. We desire to get rid of the multiplicity of ballots now in use, but we should not make independent voting more difficult by compelling a multiplicity of pasters. A simpler ballot is what we all want, and nothing can be simpler than a blanket ballot with the use of the blanket paster permitted. The question of secrecy is not involved in this issue, so long as assistance to illiterates inside the booth is not permitted, for identification of ballots cast by bribed voters is no more liable when those ballots contain blanket pasters than when they contain individual pasters, and the present law nullifies ballots marked in any way for identification.

The blanket paster is not essential to the illiterate alone. That is a minor consideration, although, of course, the illiterates should be protected in their right to vote, but the blanket paster is essential alike to the illiterate, the incompetent and the independent. The blanket paster, offering as it does the opportunity of making a combination of names chosen from the candidates nominated regularly or by petition, or not nominated at all, secures to the independent voter his only weapon against the tyranny of caucus and convention. We all desire a simpler ballot. The blanket ballot and the blanket paster would give the desired simplicity, and would receive my approval if the remaining provisions of the bill were proper. A simple paster for each name would be more complicated than the present law, and would not receive my approval. [See note 7.]

ROSWELL P. FLOWER."

April 25. To the Assembly:

Veto of a bill entitled "An act to amend the military code, in relation to parades and drills by members of the order of the sons of veterans."

" The military code at present extends the privilege of parading in public with fire-arms only to regularly organized companies of the National Guard, to troops of the United States, to certain independent military organizations and to associations composed wholly of soldiers honorably discharged from the service of the United States. The independent military organizations are liable to be called out in times of emergency to aid the National Guard in quelling invasion, riots, etc., and this liability justifies, to some extent, the privilege accorded to them.

The bill returned herewith includes associations of sons of veterans among those entitled to parade with fire-arms in public, but exempts them from any liability to be called out to the assistance of the National Guard. If an exception of this sort is made in favor of the sons of veterans, there would seem to be no good reason for refusing the same privilege to any other reputable body of citizens, and all kinds of citizen organizations could with propriety demand the right to parade in public with fire-arms. The question involved in this bill is, therefore, not confined to the propriety of the enactment of its particular provisions, but includes the propriety of establishing what might be a troublesome precedent and possibly a dangerous result in times of riot or insurrection. The law as it now stands has proved satisfactory, and I question the wisdom of changing its provisions, even for so honorable an organization as the sons of veterans.''

The bill was not passed over the veto.

April 25. To the Assembly:

Veto of a bill entitled "An act to consolidate and facilitate the collection of taxes and assessments in Richmond county."

'' The main purpose of this bill is to abolish the office of town collector in each town of Richmond county, and to substitute therefor a deputy of the county treasurer, to be appointed by him with the approval of the board of supervisors. The bill recognizes the necessity of an officer corresponding to town collector in each town, by providing an appointive county officer for each town to do the work of the town collector. Although the new deputy county treasurer is thus formally and technically made a county officer, he is substantially and, in fact, a town officer performing a part of the essential functions of town government. While, therefore, this bill may not violate the letter, it certainly does violate the spirit of the provision of the State Constitution (article X, section 2) that all town officers shall be elected by the electors of such towns or appointed by the authorities thereof.

As said by the Court of Appeals, per Andrews, J., in People ex rel. Williamson v. McKinney (52 N. Y. 374): ' The office of town collector existed when the first Constitution of the State was formed. It has continued since that time. For the whole period it has been an elective office. * * * The obvious purpose of the provision of the Constitution, which has been quoted, was to secure to the people of the cities, towns or villages of the State, the right to have their local offices administered by officers selected by themselves. * * * The purpose of this provision to secure local government through the local constituency is in harmony with the other provisions of the Constitution of 1846.'

The constitutional guaranties of Home Rule, as thus expounded by one of the greatest jurists of the State, are none the less violated because of transferring from a town officer to a county officer functions which have been so uniformly recognized from the birth of the State of New York until now as properly belonging to town officials.

I have discovered no indications of public dissatisfaction in Richmond county with the system of town collectors which has proved satisfactory in the other counties of the State for more than a hundred years.

The bill further violates the fundamental principles of Home Rule by legislating out of office the town collectors elected by the people of the towns of Richmond county and compelling the county treasurer to accept them as his deputies. Not content with this severe imposition upon the county treasurer the bill further provides, that in case of default by the county treasurer in accounting for or paying over any taxes collected by his deputies the supervisors shall, in the first instance, promptly issue to the sheriff a warrant commanding him to levy the sum thus unaccounted for or unpaid on the property of the county treasurer.

But it is the fundamental theory of this bill, rather than its defects in details, which render it objectionable. Good government in towns will not be obtained by relieving the electors of the town of responsibility for the character of their town officials."

The bill was not passed over the veto.

April 25. To the Assembly:

Veto of a bill entitled "An act to amend the town law, relating to the division of fences."

"For more than fifty years in this State a land owner has not been compelled to build a division fence, if on due notice he chooses to let his lands lie open to all animals of his neighbor's land, and does not permit his animals to trespass upon the lands of his neighbor. This bill proposes to abolish such privilege and to enable one land owner to compel his neighbor to keep up a division fence, although he has no animals to trespass on his neighbor and he has no objection to his neighbor's animals trespassing on him. When lands are sparsely settled and uncleared this bill might work hardships and injustice. In the more thickly settled and closely cultivated portions of the State, both parties have usually such mutual interests in the maintenance of a division fence that neither of them will ordinarily care to let his lands lie open. In all events the advantages to be gained by this bill in the latter class of cases do not seem sufficient to counterbalance the hardships which would result from its adoption in the former class of cases."

The bill was not passed over the veto.

April 25. To the Assembly:

Veto of items in Assembly bill, chap. 358 — the supply bill.

"'For services and expenses of counsel, Owen Cassidy, employed in the matter of the investigation of the New York State Board of Health, the sum of three thousand dollars, or so much thereof as may be certified by the chairman of the Senate investigating committee of the special committee appointed by the president pro tem. of the

Senate, to be sufficient compensation for the services and expenses of said counsel.'[31]

This investigation was requested by the State Board of Health, and a reasonable sum ought to be allowed for the proper services and expenses of the counsel employed by the legislative investigating committee. But considering the short time required for the investigation and the comparatively small amount of professional labor connected therewith, I think the appropriation of three thousand dollars is unreasonable and excessive.

'For completing volume eight, part two, of the paleontology of the State of New York, for lithographing, two hundred dollars, and the Comptroller is hereby authorized to pay out of the appropriation made for the services and expenses of the State Geologist for the next fiscal year for completing the printing of three thousand copies and for binding one thousand copies, four thousand six hundred and twenty-seven dollars, or so much thereof as may be necessary, provided that the bills for such printing shall be paid only if the receipts therefor are accompanied by a legal document satisfactory to the Comptroller, releasing both the State and the Regents of the University from all claims in connection with all contracts for printing the paleontology which are now held by the parties, to whom the payment for completing volume eight is made.'

After this item of appropriation passed each branch of the Legislature, and while the bill was pending in conference committee, there was inserted a provision making the appropriation payable out of the annual appropriation for the services and expenses of the State Geologist for the next fiscal year. This qualification can have no other purpose except to embarrass the State Geologist. With equal propriety could the Legislature provide that the expenses of the Legislature should be taken out of the salaries of Assemblymen and Senators. Such a qualification is wrong in principle and requires the disapproval of the appropriation.''

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[31] Mr. Cassidy's compensation was provided for in the supplemental supply bill, chapter 768, which appropriated $2,000 for this purpose.

The items were not passed over the veto.

April 25. To the Assembly:

Veto of a bill entitled "An act to release to Elizabeth Smith all the right, title and interest of the people of the State of New York, in and to certain real estate in the city and county of Schenectady."

'' No information is before me to indicate that the object of this bill cannot be accomplished under existing general law.''

The bill was not passed over the veto.

April 26. To the Assembly:

Veto of a bill entitled "An act making appropriations for the support of government." [32]

'' I regret that I am compelled to veto this bill as a whole because of the action of the Legislature in insisting upon incorporating in the bill a provision of irrelevant general legislation, to wit, the following:

' The attorney-general shall designate and select all counsel to be employed in the Department of Agriculture or by the Factory Inspector, Commission of Fisheries, or any of the other commissions provided for by law for the enforcement of laws connected with any of said departments or commissions, and a proper administration of said departments or commissions, in all cases hereafter arising, and shall fix the compensation of said counsel; and the

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[32] This bill was not passed over the veto, but another appropriation bill, omitting the provision objected to by the Governor was passed and became chapter 654. See Constitution 1894, article 3, section 22, for provision prohibiting riders in appropriation bills.

Comptroller shall not audit any bills for counsel fees or charges in connection with said departments or commissions, except those of counsel designated and selected by the attorney-general in accordance herewith.'

The Constitution gives the Executive power to veto items of appropriation of money in bills, but gives him no power to veto items of general legislation.[g] Therefore, if general legislation is contained in an appropriation bill the Executive is forced to approve or disapprove the bill as a whole, according to his judgment, as to the merit or demerit of the legislation sought to be enacted thus indirectly. If the bill is one making appropriation for the support of government, the alternative is presented of withholding the necessary moneys for carrying on the business of the State or of allowing the objectionable general legislation to become law. For this reason the insertion of provisions of general legislation in an appropriation bill has always been considered a pernicious practice, and has been denounced repeatedly by the best political sentiment in State and Nation. It is practically a club to enforce the acquiescence of an independent Executive in the wishes of the Legislature. It, therefore, is an attack upon the Executive's prerogative and an attempt to prevent the exercise of his constitutional rights.

The literature of legislation, State and Federal, abounds with condemnations of this pernicious practice. The custom has become almost obsolete in this State owing to the public sentiment which has been aroused against it. Governor Robinson, in two of his annual messages to the Legislature, urged its abandonment, saying:*

'A very objectionable practice has grown up of inserting general legislation in appropriation bills. The effect of it is to conceal legislative provisions in places where they ought not to be and where the public generally do not think of looking for them. It also puts it beyond the power of the Governor to withhold his approval from such provisions unless he vetoes the whole appropriation bill in which they are contained. I trust that the practice will be discontinued altogether, and that the question may not be presented as to whether such provisions shall become law or whether the appropriation bills containing them shall be returned disapproved.'

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[g] Const. 1846, Art. 4, § 9, am. 1874.

*[*Ante*, vol. 7, pp. 26, 159.

Governor Cornell went even further, taking upon himself the responsibility (though without constitutional authority, in my judgment) of vetoing a paragraph of general legislation in an appropriation bill. This paragraph revived a certain corporation, and the Governor said of it:*

'It is regarded as unwise and improper legislation to be inserted in an appropriation bill. If the corporation is to be revived it should be done on its own merits and in a separate bill.'

In federal legislation this abuse has been more common than in the legislation of our State, and it has been denounced by authorities which the Legislature will hardly despise. Perhaps the best official statement of the iniquitous character of this practice is contained in President Hayes' veto of the army appropriation bill on April 30, 1879. It will be remembered that the Democratic House of Representatives at that time insisted upon inserting in this appropriation bill a provision prohibiting the employment of United States troops at the polls, and hoped in this way to coerce the Senate and the President into approving the measure. This action was justified by Mr. Hewitt and other Democratic representatives on the ground that the liberties of citizens were at stake, and only by this heroic means could they be protected. The Senate

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Ante, vol. 7, p. 588.

yielded and the bill with this provision went to the President. In his veto message he said:

'The practice of tacking to appropriation bills measures not pertinent to such bills, did not prevail until more than forty years after the adoption of the Constitution. It has become a common practice. All parties when in power have adopted it. Many abuses and great waste of public money have in this way crept into appropriation bills. The public opinion of the country is against it. The States which have recently adopted Constitutions have generally provided a remedy for the evil by enacting that no law shall contain more than one subject, which shall be plainly expressed in its title. The Constitution of more than half of the States contain substantially this provision. The public welfare will be promoted in many ways by a return to the early practice of the government, and to the true principle of legislation, which requires that every measure shall stand or fall according to its own merits. If it were understood that to attach to an appropriation bill a measure irrelevant to the general object of the bill would imperil and probably prevent its final passage and approval, a valuable reform in the parliamentary practice of Congress would be accomplished.'

And again, in the same message, President Hayes said:

'To establish this principle (that is, of trying thus to coerce the Executive), is to make a radical, dangerous and unconstitutional change in the character of our institutions. * * * The Executive will no longer be what the framers of the Constitution intended, an equal and independent branch of the government. * * * To say that a majority of either or both of the houses of Congress may insist upon the approval of a bill under the penalty of stopping all the operations of the government for want of the necessary supplies, is to deny to the Executive that share of the legislative power which is plainly conferred by the second section of the seventh article of the Constitution.† * *

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† See Art. 1, sec. 7, clause 2, as to President's veto power.

With a firm and conscientious purpose to do what I can to preserve unimpaired the constitutional powers and equal independence, not merely of the Executive, but of every branch of the government, which will be imperiled by the adoption of the principle of this bill, I desire earnestly to urge upon the House of Representatives a return to the wise and wholesome usage of the earlier days of the Republic, which excluded from appropriation bills all irrelevant legislation.'

This advice is much more opportune now in connection with this bill than it was when President Hayes uttered it with reference to the army appropriation bill, for if irrelevant general legislation is ever justifiable in an appropriation bill it is when human liberties are attacked, as was the case when United States troops were stationed at the polls for the purpose of intimidating honest voters. The irrelevant legislation in this bill now before me involves merely a question of policy, but that question should stand on its own merits. If, in the judgment of the Legislature, it is a wise provision, it should be placed in a separate bill and sent to me for approval. It has no essential relation to the appropriation bill, as have other general provisions relating to the audit of accounts or the expenditure of money, which quite properly belong with the items of appropriation.

So far as the desirability of the irrelevant provision is concerned, there is nothing in particular to say in its favor. If it required the Attorney-General to perform the legal services needed by the various State commissions it might be recommended in the interest of economy, but this it does not do. It merely permits him to designate the counsel and fix their compensation, which is to be paid, not out of appropriations for the use of the Attorney-General, but out of those for the various commissions. For obvious reasons it is quite essential that the Commissioner of Agriculture, the Factory Inspector, the Commissioners of Fisheries, the Forest Commission and other commissions should be able to choose their own counsel promptly as occasion requires, and to pay them according to their service and to the appropriations at hand for this purpose. The Code of Civil Procedure has for many years contained a provision authorizing the Attorney-General to appear for State officers in the collection of penalties, etc.; but when the Legislature established these various commissions it thought best to give to each of them the power to employ counsel when necessary, and this authority has seldom been abused. The Legislature has it in its power at any time to prevent any such abuse by withholding from any commission, or by reducing, the amount to be set aside for the employment of counsel.

When these aspects of the question are considered, the conclusion is forced home that the sole purpose of the irrelevant provision against which my objection is directed is to increase the political patronage at the disposal of the party represented by the majority of the Legislature. That such a motive would imperil a bill providing for the support of government shows its desperate character. No other construction of the action of the Legislature is consistent with the facts, for if economy and not political patronage had been the aim of the Legislature in inserting this irrelevant provision, the Legislature should have required the Attorney-General to act in person or by representative for the other State officers, and particularly for the twenty-three legislative investigating committees, each of which has been employing expensive counsel at State expense. That would have afforded an excellent opportunity for applying this theory.

The blame for the defect of this entire bill must rest with the Legislature. After the bill first reached me and I had discovered this irrelevant and objectionable provision of general legislation, I sent for the leaders of the majority and informed them that I could not sign the bill with that in. They thereupon agreed to withdraw the bill and gave assurances that the provision would be struck out. The bill was recalled from the Executive for that purpose, but malevolent influences seem to have prevailed in the various conferences which have been held on the subject between the majority leaders during the last ten days and the bill has come back to me with the obnoxious provision substantially unchanged. My duty, therefore, is to veto the entire bill, and it is returned herewith for the reasons stated above."

April 27. The Legislature adjourned without day.

MEMORANDUMS FILED WITH BILLS BEFORE THE ADJOURNMENT OF THE LEGISLATURE.

February 28.

Memorandum filed with Assembly bill, chap. 68, determining the duties of the Attorney-General in certain cases. Approved.

"This bill confers such sweeping and exclusive power upon the Executive that I hesitated to affix my signature to it, and have only concluded to do so upon the reflection that the measure is an improvement in certain respects upon the existing law relating to the same subject. It supplies an omission in the law which I pointed out when asked to require the Attorney-General to conduct the prosecution of the Kings county election cases recently, to wit, the authority of the Attorney-General or his deputy to appear before the grand jury. In that case, it will be remembered, the district attorney of Kings county obviated the difficulty by appointing one of the Deputies Attorney-General designated for the prosecution as his assistant — which left no doubt of that officer's power to appear before the grand jury. It is, doubtless, desirable that if the Attorney-General, when required by the Governor, be authorized to 'attend the courts of Oyer and Terminer for the purpose of managing and conducting a criminal action or proceeding therein,' as provided in the existing law, he should also possess all the authority and power of the district attorney in his relations with the grand jury in such proceedings, as is the intention of the present amendment.

The law, in its present shape, is designed for extraordinary emergencies and should not be exercised except under peculiar circumstances, or upon the request of the district attorney himself, as was the case in the Kings county election prosecutions. The district attorney is a constitutional officer.[h] He is charged with the prosecution of all penal offenders. If he does not discharge his duties properly he may be removed by the Governor, after being given an opportunity to answer the charges made against him. This power of removal is a wise one, and ought, in itself, to be a sufficient safeguard against neglect of duty. It is the natural safeguard and the one most in harmony with the spirit of our institutions and our laws.

Instances occasionally happen, however, where there is no evasion or neglect of duty on the part of the district attorney, no maladministration of office, but where, by reason of personal or local complications, the interests of a thorough and impartial prosecution demand that the Attorney-General should supersede the district attorney. Such cases the bill under consideration would provide for. But they are rare, and resort to this statute, therefore, ought to be equally rare.

District attorneys everywhere should understand that their duties and responsibilities must be faithfully discharged. If criminal prosecutions are delayed or prejudiced by their official neglect or misconduct, they should be removed from office and more competent and faithful men put in their places. But only unusual circumstances or conditions would justify a departure from this simple and logical course and a resort to the sweeping provisions of this amended statute."

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[h] Const. 1846, Art. 10, § 1.

April 5.

Memorandum filed with Assembly bill, chap. 269, to provide for a water supply in the village of Penn Yan. Approved.

"This bill appears to violate a sound principle of legislation in naming the commissioners who are to perform the duties imposed by the act. Such an exercise of the appointing power by the Legislature is subversive of the spirit, if not of the letter of the Constitution.[1] I have to-day vetoed a bill having the same objectionable feature.* I am constrained to allow this bill to become a law in its present form only for one reason, namely: That the purpose of the Constitutional provision referred to has been practically accomplished in this case by a submission of the bill in its present shape to a vote of the taxpayers of the village of Penn Yan, and its ratification by them in a vote of three hundred and thirty in favor of the bill to eighty-seven in opposition. Under these circumstances the commissioners have been practically chosen by the people of Penn Yan, and, therefore, the spirit of the Constitution is not, in reality, violated by the terms of this bill."

April 14.

Memorandum filed with Senate bill, chap. 296, amending the New York city charter and providing for a public school teachers' retirement fund. Approved.

"This bill seeks to confer power upon the board of education of the city of New York, to retire on half-pay (which, however, shall in no case exceed $1,000) male and female teachers who have completed, respectively, thirty-five and thirty years of service as teachers in said city.

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[1] Const. 1846, Art. 10, § 2.

**Ante*, p. 371, Port Jervis bill.

The bill provides three possible sources of revenue for this retirement fund, as follows:

1. All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any teacher or teachers for and on account of absence from duty for any cause.

2. All moneys received from donations, legacies, gifts, bequests or otherwise, for and on account of said fund.

3. All such other methods of increment as may be duly and legally devised for the increase of said fund.

Of these three sources of revenue there can be, of course, no objection to the second. Whether there could be any objection to the third would depend entirely upon the nature of the legislation proposed, and until that is proposed discussion regarding it is irrelevant. The only material and immediate question, therefore, is whether the first source of revenue, namely, that of deductions from teachers' wages on account of absence, can, with propriety, be set aside for such a fund. At present teachers may be excused for a limited time on full pay. These excused absences in the year 1892 represented $45,347 in wages. Under the workings of this bill there would be no excused absences on full pay, and instead of the teachers getting the amount of wages represented by their absences the amount would be set apart for the retirement fund.

There can be no serious objection to this requirement if the fund thus supplied will be sufficient to satisfy the demands upon it. Upon this point the statistics before me throw some light. The highest estimate of the number of teachers who would immediately be beneficiaries of the fund is forty, and inasmuch as the average salary is $800, retirement of these forty teachers on half pay would require $16,000, or but little more than one-third of the receipts which would have been available for the fund in 1892, the only year for which I have statistics as to the amount of wages representing excused absences. It would seem, therefore, as if this source of revenue would amply supply the needs of the fund, even allowing for the reduction which might be expected in the receipts by reason of diminished absences when no pay was furnished.

It is upon this supposition that I have affixed my signature to the bill. Had the bill proposed a system of pensions for teachers at public expense, I should not have approved it. I fully approve of all proper efforts on the part of civil officers to create mutual benefit or insurance funds, but these efforts should be voluntary and at private, not public, expense."

THIRTY-DAY BILLS.

May 4.

Memorandum filed with Assembly bill, chap. 477, to make the sheriff of New York city and county a salaried officer. Approved.

"The enactment of this bill has been urged chiefly on the ground that under the present law the sheriff of New York receives fees largely in excess of what is a reasonable amount for the services performed, and that the county rather than the sheriff should be the recipient of this excess of moneys.

This is a sound principle in theory, and I am surprised that the Legislature in indorsing it did not apply it to other counties of the State. If the principle is good for New York it ought to be good for Kings county and other counties where the incumbent of the office of sheriff belongs to the same political party as is represented by the majority of the Legislature. By extending so salutary a principle to sheriffs of Republican counties, the Legislature would have escaped the charge which has been made against it that the chief object of the bill was a political attack on a Democratic officer and a Democratic county.

However sound in principle the argument in favor of the bill may be, I am disposed to think, even while approving the measure, that its effect will not be as salutary as some of the friends of the bill imagine. It will be remembered that the present statute governing the fees and compensation of the sheriff of New York was the outcome of the so-called Fassett legislative investigating committee of 1890, and under its provisions half of the fees collected goes to the city. So that the more fees the sheriff collects the greater the revenue to the city. This bill would deprive the sheriff of any share of these fees, and to that extent withhold from him the stimulus which he would otherwise have to increase the amount to be divided between himself and the city.

The experience with offices which have been made salaried in the name of reform has not been particularly encouraging in the county of New York. I cannot do better in discussing this point than to quote the report of the so-called Fassett committee upon the register's office of New York. This office was made a salaried one in response to a burst of public sentiment similar to that which is said to exist toward the bill before me. As to the effect of this change the Fassett committee said:

'It was urged, at the time of this particular so-called reform, that it would put an end to great evils in the administration of the office; that it would take the office out of politics by reducing its value as a political prize and yield large returns to the treasury of the city. The extent to which these expectations have failed of realization will be seen by an examination of the testimony relative to the administration of the office which we submit herewith. The city not only to-day pays the entire expenses of the office, but the office has become a burden upon the city instead of showing, as was expected, a balance to its credit through the collection of the fees for the performance of the functions of the office.'

There is no assurance that this experience will not be repeated in the case of the sheriff's office, but, inasmuch as the bill is sound in principle and involves merely a question of policy, I am induced to give the advocates of the bill the benefit of any doubt and append my signature."

May 4.

Veto of Assembly bill entitled "An act with reference to the removal and appointment of heads of departments in the city of New York."

"This bill is so short that I incorporate its provisions in full in this memorandum of disapproval.

'Section 1. At any time within sixty days after the commencement of his term of office, each mayor of the city of New York hereafter elected may remove from office any head of department and appoint his successor. Such successor shall hold office, unless removed in accordance herewith, until the expiration of the term of office of the mayor who appointed him and until his successor is appointed and qualified. Nothing herein contained shall be construed as affecting the power of the mayor to remove any head of department for cause.'

It will be observed that this is not an amendment of the charter of New York. It does not specify the heads of departments which are affected, but includes them all in its sweeping clause. It does not directly change the term of office of any head of department as defined by law. But indirectly, though none the less effectively, it limits the term of office of the head of each municipal department to two years, unless the officer is allowed to serve out his full term by the favor of the mayor. Already there is a public dispute as to whether the bill affects elective heads of departments, like the Comptroller, and while it is admitted by friends of the bill that the measure might appear to bear that construction, I am asked to leave to the courts the determination of this very important question. The fact that controversy as to the meaning of the bill has already arisen is a sufficient indication of the looseness of its phraseology and a justification for its disapproval.

My objection to the bill, however, does not rest upon the ambiguity of its provisions, but upon the dangerous principle which they embody. They make the mayor of New York an autocrat — the heads of municipal departments merely his puppets. They destroy the present wise system of checks and balances in municipal administration — a system designed, like that of the State government, to protect the people from wholesale abuses by bad officers. By giving to the mayor, as the bill would, a controlling influence in the board of estimate and apportionment, it would place under his absolute control the expenditure of between thirty and forty millions of dollars annually — a power which, if so disposed, he could use for the basest personal or political ends. It would bring every head of department into an active strife for the spoils of office, for every such officer would know that upon the election of his candidate for mayor would depend his own retention in office. The 'spoils' idea is too much a feature of our municipal politics now, but under this proposed law the entire civil service of the city would be active participants in local campaigns, and reform in municipal government would receive a serious setback. It is no answer to say that under such a law the people would be more likely to select a capable man for mayor. The powers now conferred upon the mayor of New York are sufficiently broad to incite the liveliest interest among all good citizens in the question of who that mayor should be, and the best citizenship is that which is alive every day in the year and at every election, and not the kind which is bottled up for occasional explosions.

In this opinion, as to the danger of conferring such arbitrary powers upon the mayor, I am sustained by authority which both classes of advocates of this bill must respect.

One authority is the so-called Fassett investigating committee of 1890 and 1891. After a careful and comprehensive investigation into the workings of the municipal government of New York, that committee, in its report to the Legislature, made many recommendations, but none of these involved the feature of this bill. Indeed, on this question, the committee said: 'We do not believe in making the mayor an autocrat.'

But even more distinguished authority is that of the famous Tilden municipal commission of 1876 and 1877, whose report is much valued by municipal reformers. This commission consisted of James C. Carter, now president of the City Club of New York, Oswald Ottendorfer and E. L. Godkin, distinguished editors of metropolitan newspapers, William M. Evarts, Simon Sterne and others. In the course of their able discussion of municipal government, these gentlemen said, with reference to the suggestion of conferring very extensive powers upon the mayor:

'It has of late years frequently been suggested that the corrective proposed by frequent popular elections fails of its intended effect, for the reason that under present arrangements there is such a division of powers that the people are unable to discern the officials upon whom the maladministration is really chargeable. The remedy suggested is to clothe the mayor with full authority to appoint and remove all the principal executive officers and then to vest in the officers so appointed the control of the business of raising and appropriating moneys. It is argued that, under such civil arrangements, the people could always hold the mayor responsible for wasteful or inefficient administration and would be sure to apply the proper remedy by changing the head of the government.

'*We have no confidence in such a scheme.* It finds no support in the established principles of popular representative government. The important functions of determining how much money shall be raised by tax and of its distribution among the various local objects and purposes are essentially discretionary, and the officers who are to exercise them should be sensible of no obligations, restraints or fears, except such as proceed from their convictions of the public welfare. Few men deserving of public confidence would accept such places at the hands of a master who could make and unmake them at pleasure.

'But more than this, the scheme suggested places the control of vast sums of money — in the city of New York thirty millions of dollars — a larger revenue than that of some kingdoms — in the hands of a single man. No such control over the public resources is lodged even with a sovereign in any constitutional government. The disposition of such a fund, absolute when once gained, would become the contention, not so frequently of those who would prove faithful to the trust, as of those who sought it only to betray it.

'The assumption that with frequent elections the people would very soon depose an unworthy chief officer is altogether illusory. The master of the revenues and patronage of a million of people might not suffer himself to be displaced. The notion that the present failure of municipal elections to remove unworthy officers is mainly attributable to an inability to trace the responsibility for maladministration to its true source is erroneous. The real difficulty is that the mass of the citizens, however strongly they may be convinced of the necessity of a political change, are not willing to enter upon a campaign against thoroughly organized political combinations, for the reason that there is no sufficient prospect of success.'

And again, with reference to the mayor, this commission said:

'To bestow upon him the absolute power of appointment and removal of all the principal executive officers would, in the great cities, render him an autocrat. Responsibility for maladministration would, it is true, be easily fastened upon him; but to apply the remedy of deposition from power at an election would be a difficult task. To put into the hands of a single man the control of twenty millions of dollars, with liberty to use it to keep himself in place, would be suicidal.'

I have quoted at length upon the report of this distinguished commission, for the reason that its conclusions upon this subject so fully coincide with my own and are so particularly appropriate in the discussion over this bill. How much more forcible are they to-day, when the city's expenditures reach nearly forty millions of dollars annually and the number of its departments is largely increased?

Perhaps I have taken too seriously the reasons urged for this bill's enactment, for I am aware that the bill is regarded generally as one urged from political motives rather than from an honest desire to secure good government. It is true that the bill was rushed through the Legislature by the spur of party caucus, that the Legislature refused to make its provisions applicable to other cities of the State, thereby exposing the insincerity of the bill's supporters, and that it was opposed almost unanimously by the representatives of the city of New York in the Legislature. But inasmuch as the principle of the bill has been advocated by members of various reform organizations in New York, the honesty of whose motives is, of course, beyond suspicion, I have thought best to ignore the political aspect of the bill and confine myself solely to its substantial faults. I am convinced, with Messers. Carter, Ottendorfer, Godkin and the other members of the Tilden commission, that the way to secure good government is not by the adoption of the principle embodied in this bill. The only sure way is by a proper division of municipal duties, individual and direct responsibility of every officer and the increasing vigilance of every citizen." *

May 9:

Veto of Senate bill entitled "An act to provide a new pumping-house, pumping engines and conduit, with appurtenances thereto, for the purpose of supplying the city of Albany with an increased supply of water," and

Assembly bill entitled "An act to amend chapter three hundred and four of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for the appointment of a board of water commissioners for the city of Albany.' "[33]

"The question of a pure and sufficient water supply has for a great many years been a live one among the people of Albany, and if the legislation which has been added to the session laws during the past ten years is examined the inference is unavoidable that public sentiment on this subject has been exceedingly fickle. At one time the sentiment seemed heartily in favor of the use of Hudson river water, and pumps for that purpose were ordered from a firm in Milwaukee. Before this order had been filled, however, public sentiment revolted against this source of water supply on the ground of its impurity, the pumps were directed not to be brought on, and a new commission was established to suggest another source of supply. It is sufficient to say, without recounting the various plans presented by the various water commissions during the past ten years, that no plan seems to have given general satisfaction, and there is no reason to think the legislation now before me represents the conservative judgment of the people. Eliminate its political aspects and the number of its advocates, I fear, would be appreciably diminished.

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* A power of removal bill for New York, but differing materially from the bill here vetoed, was passed in 1895, chap. 11; see *post*, p. 552.

[33] An act passed in 1897, chapter 555, provided for the reorganization of the board of water commissioners of Albany, and for obtaining a supply of pure and wholesome water. The act authorized the issue of city bonds for this purpose to an amount not exceeding $500,000. Under this act a filtration system was established. An act passed in 1905, chapter 25, authorized an additional loan of $400,000 for the purpose of enlarging and extending the water system of Albany.

The bills have two objects, first, to compel the water commissioners to bring on and set up the four pumps and engines which the city ordered many years ago at Milwaukee and subsequently tried to get rid of; and, second, to abolish the present water commission and to create a new one.

The first bill is an exceedingly bad one in principle. It is a direct violation of Home Rule. It is an assumption on the part of the Legislature to manage the water department of the city of Albany, instead of intrusting it to the water commission which is created for that purpose by law. The mandatory character of the bill would establish a bad precedent for future legislation. As to its substantial provisions I question whether they are desired by the people of Albany. The people undoubtedly desire an increased supply of water, and that sentiment was respected by the water commission in the action which it took on April twenty-first last in ordering one of those pumps to be brought on and placed in operation without delay. That pump will furnish an additional supply of 5,000,000 gallons daily, which I am told, in addition to that already furnished, is more than enough to meet all the wants of the city. The commissioners have the power now, moreover, to do all that is required by this bill, and their official responsibility would undoubtedly compel them to do it all were the requirements, in their judgment, for the best interests of the city. This bill is nothing but an arbitrary exercise of legislative power to manage certain details of local administration, about which, it is to be presumed, the local commissioners are as well informed, as the Legislature. They should, at any rate, have been given discretionary power in the matter.

The second bill, that which legislates out of office the present water commissioners and provides for the appointment of new commissioners by the recently elected mayor, is advocated by two classes of persons — those who oppose the so-called Kinderhook water project, which the present commissioners have recommended, and those who desire the transfer of political patronage which a change in the commissioners would permit. Opposition to the personnel of the commission because of its report in favor of one particular scheme of water supply is no justification for the summary removal of the commissioners by the Legislature, so long as they are not able of their own motion to carry their plan into effect. Whatever their plan is it has to be approved by the common council, and the power to issue bonds for its carrying out must be granted by the Legislature. The difference of opinion as to that question is, therefore, not pertinent in the consideration of this bill, but it would be pertinent before the common council or before the Legislature when power is asked to carry the plan into effect. As a matter of fact, the present common council has, I am informed, already recorded itself in opposition to the Kinderhook project, which prevents its accomplishment during the term of the present common council no matter what the personnel of the water commission.

There remains for consideration, therefore, in connection with this bill, the plea which was openly made before me at the hearing upon the bill, that its enactment would enable the new mayor to have the political patronage connected with the commission. In other words, several commissioners directly, and between seventy-five and a hundred employees indirectly, would be legislated out of office for political reasons alone. Such an argument is unworthy of serious consideration. That the bill was introduced and urged as a party measure by the leaders of the political majority in the Assembly and Senate, not residents of Albany, but living hundreds of miles away, shows conclusively its partisan character. In this respect the bill is like many more measures passed at the recent session, whose only purpose seems to be the base one of seeking political advantage through official patronage. That purpose of itself should condemn all such measures.''

May 10.

Veto of Assembly bill entitled "An act making appropriation for the state land survey."

"The recent session of the Legislature was conspicuous for the number of investigating committees that were established to inquire into the workings of various State bureaus and commissions, with the view of ascertaining whether some of these offices could not be abolished or consolidated in the interest of economy and efficiency. Much testimony was taken, expensive counsel were employed, and a great deal of ground was covered, but as a result of these official investigations only one bill was passed and that attempted to abolish the office of shore inspector, the cost of which does not fall upon the State but upon the five counties adjoining the waters of New York bay. In order to abolish this one office which cost the people of the State at large nothing, the Legislature felt compelled also to repeal all the statutes prohibiting the dumping of refuse and garbage in the waters of New York bay. This would have been an expensive price to pay for the abolition of one minor office, and at the earnest solicitation of the people of the locality likely to be exposed to disease contagion by the destruction of these safeguards of the public health, I interposed my veto to the enactment of this bill.*

But not only has the Legislature failed, except in the instance just cited, to abolish or consolidate any of the

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**Ante*, p. 384.

State bureaus and commissions, but with strange inconsistency, it has attempted to create new offices which are likely to be a continuous drain on the State treasury. One of these measures was the establishment of a State nautical school, which would require an annual expenditure of at least $40,000, and which I vetoed.* Another is this bill now before me to revive the so-called Adirondack Survey, and thereby create a new officer to be known as the Superintendent of the State Land Survey, with power to employ assistants and carry on work which ought to be carried on by the State Engineer and Surveyor.

The so-called Adirondack Survey began officially under Mr. Verplanck Colvin in 1872. It practically ended, though far from completed, in 1883, when Governor Cleveland condemned it in strong words,† and since that year no appropriation for the purpose has been granted, owing to the strenuous opposition to the character of the work and the manner of its carrying on. From 1872 till 1884, the cost of the Adirondack Survey alone amounted to upwards of $135,000, while only a very small percentage of the total work required to be done has been accomplished. While these surveys are very desirable they should be placed in the most competent hands under the direction of the State Engineer, and they should be carried on as economically as possible. To revive the work which was quite properly discontinued by law in 1883, and for this purpose to create an independent new bureau outside the State Engineer's office with a salaried superintendent at $5,000 a year and assistants, is unwise and extravagant legislation. If the State's experience with such a bureau in the past is any indication of what its experience would be in the future, the people should be spared so great an imposition.

By the passage of this bill the Legislature has also retarded the very excellent work on the State topographical

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**Ante*, p. 380.

†*Ante*, vol. 7, p. 875.

survey which has been going on so successfully under the joint supervision of the State Engineer and the United States geological survey. Under the arrangement entered into between the United States and New York State authorities the State was to pay half the expense of this work and the Federal government half, and up to date about a fifth of the area of the State has been surveyed. This bill leaves the question of Federal co-operation substantially to the proposed Superintendent of the State Land Survey, and while making the consent of the State Engineer contingent excludes him practically from participation in the work. A strict construction of the bill would also seem to make it optional with the superintendent whether he should set apart for the general survey $10,000 of the $30,000 appropriated as is authorized in the bill.

The State Engineer and Surveyor is a constitutional officer.[1] His duties were prescribed by law at the time of the adoption of the Constitution. One of these duties is to superintend the surveys of State lands. That duty should not be taken from him and given to a new officer created by statute. It is proper and business-like that the work proposed by this bill should be intrusted to the State Engineer, and the establishment of a new office or bureau for this purpose is entirely unnecessary."[*]

May 10.

Veto of Assembly bill entitled "An act to amend the banking law."

"While the intention of this bill is a good one, namely, to acquaint all persons having an interest in a savings bank deposit, as next of kin or heirs-at-law, of the existence of such deposit, the method of attaining the bill's objects under its provisions is objectionable and would undoubtedly work more harm than good.

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[1] Const. 1846, Art. 5, §§ 2, 5.

[*] Provision for continuing the State land survey was made in 1895, by chap. 589, which appropriated $50,000 for this purpose. The work was to be under the direction of Verplanck Colvin, superintendent of the State land survey.

In the first place the bill makes it necessary for savings bank officers to know which of their depositors are living and which are dead. In a bank of upwards of 5,000 accounts, and particularly in a bank of upwards of 25,000 accounts (and some of the banks in the State have as high as 120,000 accounts), it is practically impossible for the officers to know which of the depositors are living in all cases.

Again, probably a majority of the accounts in which there have been no transactions within five years, except the crediting of interest, are the accounts of children placed there with the express intention of having them remain at least until the child arrives at its majority. It would impose much additional labor and expense upon the banks to be compelled to ascertain which of these thousands of juvenile depositors are alive and to publish the necessary advertisements.

The bill provides no penalty for a failure to publish the accounts annually, and it is not made the duty of a supervising officer to see that it is done.

The banking law's provisions with reference to dormant accounts, namely, those which have not been increased or diminished by deposits or withdrawals, exclusive of interest credits, for twenty-two years, have worked well in practice, and if it is thought desirable to extend or elaborate these provisions of law the object of this bill under consideration might be accomplished in that direction more satisfactorily and more economically than as the measure is now framed."

May 10.

Veto of Senate bill entitled "An act to provide for the erection of a statue of Major-General Frederick William, Baron Steuben, in the county of Steuben."

"The erection of a statue in honor of Baron Steuben is undoubtedly a commendable project, but the money for this purpose ought not to come out of the State treasury. If the State adopts the practice of appropriating from its treasury for such purposes, there might be no limit to this kind of extravagance. I am in thorough sympathy with all efforts to perpetuate historic names in proper ways and to mark in appropriate manner historic places, but I think the public spirit in each locality ought to be sufficient to raise the necessary moneys for such objects by private subscription, or even by local taxation, but not by taxation upon the whole State. When the city of New York and the city of Brooklyn desire to erect a monument in honor of some distinguished person, they do not appeal to the Legislature for an appropriation from the State treasury, but raise the money by subscription or by taxation upon their own people. I do not see why the other localities of the State should not adopt the same rule."

May 10.

Veto of Assembly bill entitled "An act to amend the Code of Civil Procedure, relating to jurors' fees in justices' courts."

"This bill raises the fees of jurors serving on trial in Justices' Courts from twenty-five cents to fifty cents, thereby adding one dollar and fifty cents to the expenses of a justice's court trial with a jury. I have already expressed the opinion, in vetoing a bill similar in character, that our courts cost too much, and the effort should be to reduce, rather than to increase, the expense of litigation."

May 10.

Veto of Assembly bill entitled "An act to amend section fifty-six of title two of chapter three of part four of the Revised Statutes, relating to State prisons with respect to the clerk of such prisons."

"The bill is defectively drawn besides being unnecessary in substance. The Comptroller can already impose the requirement authorized in the amendment if he so desires."

May 10.

Veto of Assembly bill entitled "An act to release to George Hyne, John Kilgour and David Kilgour, all the right, title and interest of the people of the State of New York, in and to certain real estate in the city of Brooklyn, county of Kings and State of New York."

"If this is an escheat bill there is no information before me to indicate why its object cannot be accomplished under the general escheat law. The bill itself does not indicate whether the right, title and interest of the people of the State, which are sought to be conveyed, were acquired by escheat, foreclosure or purchase. Numerous bills of this kind, whose phraseology gives no indication of the nature of the property the State is releasing to private individuals, have frequently been disapproved during the past legislative session, and I see no reason, therefore, why any exception should be made in favor of this measure."

May 10.

Veto of Senate bill entitled "An act to authorize the Board of Claims to rehear, audit and determine the claims of Jacob Crouse and Silas B. Fyler, and to make awards thereon."

"Several persons, among whom were Jacob Crouse and Charles Spencer, claimed to have been damaged by the discharge of canal water from the Erie canal during the winters of 1886 and 1887. These claims were submitted to the Board of Claims, but on September 11, 1889, the board handed down its decision refusing to make any award. Appeals were taken to the Court of Appeals and a stipulation was entered into that if the Spencer case should be reversed then the awards in all the remaining cases were to be vacated and new hearings granted. The Spencer case was affirmed and the appeals in the other cases, therefore, are pending and undetermined.[k]

This bill would grant a new hearing irrespectively of the pendency of these proceedings in the courts. It is an attempt at interference by legislation with pending litigation, and, therefore, should be disapproved."

May 10.

Veto of Assembly bill entitled "An act conferring jurisdiction upon the Board of Claims to hear and determine the claims of Milton B. Jarvis, against the State of New York, and to make an award therefor."

"Every claim bill ought on its face to indicate some reason, at least, for its enactment. The Constitution forbids the Legislature and the Board of Claims from auditing, allowing or paying any claim which, as between citizens of the State, would be barred by the statute of limitations.[1] When bills of this nature are blindly phrased there is no method of determining whether the claim is one which has been outlawed or not. Apparently the design of this bill is to relieve the claimant from the effect of the statute of limitations, and for this reason it ought not to be approved."

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[k] Spencer v. State, 135 N. Y. 619.

[1] Const. 1846, art. 7, § 14, added 1874.

May 10.

Veto of Assembly bill entitled "An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claims of William Drury and Lewis S. Van Arnum, or either of them, against the State, and to make an award therefor."

" This bill is defective in form. There is nothing on the face of the bill to indicate the nature of the claim and the Executive is, therefore, left without information as to the propriety of referring it to the Board of Claims for adjudication and determination."

May 10.

Veto of Senate bill entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of John Moore, and to make an award thereon."

" This bill and others of a similar nature are becoming more frequent every year, the claimants seeking to recover for material furnished and services performed for the State.

It appears that the claimant entered into a contract with the Superintendent of Public Works on June 28, 1887, to build four new locks, the work to be completed on or before April 1, 1888. The maps, plans and specifications were on exhibition at the office of the Superintendent of Public Works for several days before the contract was let.

The claimant had opportunity to understand, and no doubt did understand, the nature and quantity of each separate piece of work to be done. It must be assumed the claimant was a practical man, he being an old contractor, and knew the cost of the work before entering into the contract, and if, from any unforeseen cause, or any obstructions arising from the performance of said contract, it should prove to be unjust and oppressive, he might have made application to the Canal Board and be relieved of such contract.

The Constitution prohibits the payment of extra compensation to any contractor on the canals. (See § 3, art. 7.)

The State labors under great disadvantages in the preparation and trial of such claims, from the fact that claimants wait a period of six years before filing their claims, and the employees of the State who would know something pertaining to the work are now scattered in different parts of the country and have no interest whatever in the matter.

This bill should not become a law."

May 10.

Veto of Assembly bill entitled "An act to exempt the real and personal property of the Larchmont Manor Park Society, in the village of Larchmont, from taxation."

"This is unnecessary special legislation. The general law passed last year for the exemption of certain institutions and societies from taxation was intended to obviate the necessity of bills of this kind. If the present general law is not broad enough to include this institution, and if the institution is worthy of exemption from taxation, the general law should be amended, but special bills of this kind ought to be discouraged."

May 10.

Veto of Assembly bill entitled "An act to amend the charter of the Lyons Union School in relation to the election of clerk and trustees."

"Section 17 of article III of the Constitution provides that:

'No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.'

This bill is not drawn in conformity with this provision of the Constitution, and is, therefore, probably unconstitutional."

May 10.

Veto of Senate bill entitled "An act to enable the village of Oneida to refund its bonded indebtedness and to issue bonds for that purpose."

"My chief objection to this bill is that it exempts the bonds from State taxation. Moreover, I am unable to see why the refunding which is authorized in section one, cannot be done under the General Municipal Law."

May 10.

Veto of Assembly bill entitled "An act to amend and make additions to chapter four hundred and sixty-three of the laws of eighteen hundred and sixty, entitled 'An act to revise the charter of the city of Oswego,' and the acts amendatory thereof."

"Substantially the same bill was vetoed by me on March 23, 1894, and I have not changed my opinions upon the measure since that time."

May 10.

Veto of Senate bill entitled "An act to amend chapter two hundred and sixty-two of the laws of eighteen hundred and fifty-five, entitled 'An act revising and amending an act entitled "An act to incorporate the village of Ulster," and the acts amendatory thereof.'"

"This is a duplicate of a bill already signed. (Ch. 546.)"

May 10.

Veto of Assembly bill entitled "An act to amend chapter five hundred and seventeen of the laws of eighteen hundred and eighty-nine, entitled 'An act to establish a normal and training school at the village of Plattsburgh, in the county of Clinton, and to make an appropriation therefor,' relating to the board of managers."

" I do not think that there should be any reduction in the number of managers of this school which shall be required to constitute a quorum for the transaction of business. It has required nine managers heretofore to make a quorum, and this bill would reduce that number to seven. The present requirement is in the direction of conservative management and no good reason has been advanced for any change in the law."

May 10.

Veto of Assembly bill entitled "An act empowering the supervisor and commissioner of highways of the town of Plattsburgh, to purchase a stone crusher and power and to provide for the working of highway assessments in connection therewith."

" The general highway law already authorizes the commissioners of highways of any town after an affirmative vote of the majority of the electors voting at an annual or at a special town meeting to purchase a stone crusher to be used for the improvement of the highways. This bill confers this power upon the supervisor and commissioner of highways of the town of Plattsburgh without any affirmative vote of a majority of the electors. The bill is, therefore, objectionable special legislation in the interest of one town.

The second section of the bill relating to the performance of work on the highway is also unnecessary, inasmuch as section 63 of the general highway law already makes similar provision for all towns in the State."

May 10.

Veto of Senate bill entitled "An act to provide for the grading and other improvement of certain park lands in the city of Brooklyn, and to provide the means therefor."

"This bill is an exact duplicate of one already signed. (Ch. 587.)"

May 10.

Veto of Assembly bill entitled "An act in relation to local improvements in the city of Brooklyn, and to provide, by the issue of bonds, the means required therefor."

"This bill is a duplicate of one already signed, and its enactment is, therefore, unnecessary. (Ch. 377.)"

May 10.

Veto of Senate bill entitled "An act in relation to the coroner's physician in the eastern district of the county of Kings."

"This is a peculiarly obnoxious type of special legislation in the interest of an individual. It increases the salary of the person affected from eight hundred to three thousand dollars a year, and practically puts him in office for life. However worthily he may perform his duties, he ought not to be the recipient of special favors at the hands of the Legislature, and his tenure of office as well as his compensation should be regulated by the general law."

May 10.

Veto of Senate bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' with reference to the appointment of commissioners of parks in said city."

"This is one of the bills which was forced through the Legislature as a political measure by the majority in each house. Its character is well indicated by the abject political confessions of some of the advocates of the bill while the measure was under discussion in the Senate. According to the stenographic minutes of the debates Senator O'Connor said:

'I am going to do in this case what seems inconsistent, and that is to argue against the bill and vote for it, because I see my Republican colleague (Lexow) wants it, and the majority can want nothing so bad that I can't follow them. We sometimes here place the appointments in the hands of the mayor, then in a Comptroller, and then in a minority of a board of aldermen, and it seems that we are continually searching around to find somebody in whose hands to place appointing power. But next fall when we have a Republican Governor and a Republican Legislature we may have, and I hope we will have, a consistent plan upon which matters of this kind can be based.'

Senator Pound also said:

'I see nothing in this bill that commends itself to me as a Republican, and I see nothing to be gained by it for the Republican party, but, like my colleague (Mr. O'Connor), I do not care to isolate myself from my associates, and, therefore, vote aye.'

These confessions indicate the extreme length to which partisanship was carried in the consideration of legislation during the recent session. This bill has no object whatever, except a division of political spoils in the park department of New York city, demanded at the point of the legislative bayonet. The measure is one of that class of so-called reform bills which the last Legislature seemed to delight in foisting on Democratic cities. Reform, as exemplified by the majority in the Legislature, is a physic which they seem fond of administering to all other than Republican localities, and to all other people except themselves.

The reasons advanced for the passage of this bill are the best reasons why it should not receive my approval."

May 11.

Memorandum filed with item in Assembly bill, chap. 654, the appropriation bill. Approved.[34]

"One feature of this bill is so important that I take advantage of this opportunity to call public attention to it. The paragraph to which I refer is as follows:

'The superintendent or other managing officers of each of the State charitable and reformatory institutions other than the State prisons, State hospitals for the insane and the Oneida State custodial asylum, shall on or before the fifteenth day of each month commencing with the month of September, eighteen hundred and ninety-four, cause to be prepared and delivered to the Comptroller a statement in detail, of the expenses estimated to be necessary for such institution for the next succeeding month, and of an amount in gross not exceeding two hundred and fifty dollars for a contingent fund to meet unexpected emergencies during each succeeding month. Such statement shall be made in such form as the Comptroller shall direct. The Comptroller may revise such statement as to quantity of supplies, estimate of cost thereof and as to such gross amount. The expenditures by each such institution during each such succeeding month for any purpose shall not exceed the total amount of the estimate therefor as so revised by the Comptroller, unless in case of extraordinary emergencies the Comptroller may authorize an expenditure in excess of said amount.'

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[34] The State finance law, L. 1897, chapter 413, as amended, contains provisions requiring monthly statements and estimates to be presented to the comptroller by each State institution or commission.

An act passed in 1902, chapter 252, amending the State Charities law, created the office of fiscal supervisor. This officer was given general financial supervision of all State charitable institutions, and also the State School for the Blind at Batavia and Elmira Reformatory. He was also required to examine and revise monthly estimates of expenditures in the various institutions under his supervision, and report thereon to the comptroller, who after revision and approval of the estimates was directed to provide for the payment of the expenditures allowed.

While this is general legislation it is particularly appropriate in this bill, for every appropriation bill which is properly constructed must have in it reasonable safeguards governing the audit of accounts and the expenditure of public money. This particular provision was inserted at my request, and is intended to extend to charitable and reformatory institutions the system of State audit, which was so successfully applied a year ago to the State hospitals for the insane, with the result of probably saving to the State in the administration of these hospitals at least $200,000 a year. The institutions which will thus be brought under a business-like system of examination and audit of accounts are numerous and represent over 5,000 inmates, the average cost of whose maintenance last year was $271 per capita. It is expected that this average cost can be greatly reduced by a careful State supervision of the expenditure of moneys for maintenance, and it is conservatively estimated that the saving to the State will be at least $150,000 a year. If these expectations are realized, the net annual saving to the State by the adoption of the system of State audit for the insane hospitals and the charitable and reformatory institutions receiving public moneys will be $350,000. This would be an achievement of which every citizen and public officer should be proud. It would show what beneficial results can be attained by the application of business methods and principles to the carrying on of the State's great activities. Our State system of charities and reformatories has grown up so gradually, and each part of the system has been so independent of all other parts, that the State is now expending upwards of $4,000,000 a year, the greater part of which expenditure has, up to the time of the adoption of these schemes of State audit, been hedged about by no stringent safeguards. We may congratulate ourselves at last that with the introduction of State audit a year ago in the management of our insane hospitals and its introduction now in the management of charitable and reformatory institutions the work of maintaining the State's charities and reformatories is on a business-like basis."

May 12.

Veto of Senate bill entitled "An act to provide for the building of a pier between certain streets in the city of Brooklyn."

"I am informed by the Assistant Secretary of the Navy, Hon. William McAdoo, that the construction of this proposed pier would interfere seriously with the navigation of the channel at this point and with the proposed improvement of the navy yard water front, and I am requested by him, as well as by the local authorities of Brooklyn and many other property owners in the vicinity of the proposed pier, to withhold my approval from the measure. The commandant of the navy yard, Rear-Admiral Gherardi, also writes me that the pier would reach a point so near the bulk-head line of the United States that it would almost entirely obstruct the navigation of the Wallabout channel for vessels approaching or leaving the Cob dock. As the government is about to build a causeway across the channel, between the Cob dock and the navy yard, the proposed new pier would inclose, between it and this causeway, two large Brooklyn sewers which would empty into practically dead water. Such a condition would be menacing to the health of the navy yard as well as to that of the surrounding district.

Moreover the city of Brooklyn is about to pay to the United States government the sum of $1,208,000 for the purchase of an additional tract of land at the Wallabout for future uses of this great market of the city. The only access to this land now being purchased and the docks and slips that are to be constructed in connection with it, is through the Wallabout channel. This bill would permit the construction of a pier 250 feet into the East river, anywhere between South Eleventh street and Division avenue, and the interests of the city of Brooklyn and of those of its people who are interested in any way in the Wallabout market, or in the business carried on there, would be seriously prejudiced by such a pier.

The measure seems to be entirely adverse to the interests of the people, and merely an expression of legislative favoritism toward a few individuals."

May 12.

Veto of Assembly bill entitled "An act to amend chapter one hundred and four of the laws of eighteen hundred and seventy-two, entitled 'An act in relation to trustees and directors of charitable and benevolent institutions.'"

"The purport of this bill is to permit a director or trustee of any charitable or benevolent institution to receive from the institution a salary or compensation for professional services rendered by him to the institution as physician, attorney or counsel. This would nullify the present desirable prohibition against any such payments. It might lead to scandal and a dangerous abuse of power. The law is better as it stands at present. If directors of such institutions desire to serve them in a professional capacity for pay, they should resign their directorships."

May 12.

Veto of Assembly bill entitled "An act to amend the town law relative to balloting outside incorporated villages."

"From the objections which have been filed with me against the enactment of this bill, I am sure the proposed law would arouse considerable dissatisfaction in the towns and villages which it would affect, and while there may be some justice in asking for such legislation, I am inclined to think it would be safer to allow the law to stand as it is.''

May 12.

Veto of Senate bill entitled "An act to provide for the reorganization of the Board of Charities and Corrections of the county of Kings, and for the appointment of a commissioner thereof, and subordinates of said department."

''Knowledge of certain facts is essential to a complete understanding of this bill. The present Board of Charities in Kings county consists of three men, the terms of two of whom began in January last, and will continue for four years. These three men are Democrats. They employ for the county about seven hundred men and women, and superintend the support and care of between five and six thousand county wards.

This bill would legislate the three commissioners out of office. It would provide for the appointment of one commissioner in their place by the supervisor-at-large of the county. The present supervisor-at-large is a Republican.

In other words, the bill bodily transfers the department from Democratic control to Republican. One of the most important departments of government in Kings county is thus made the foot-ball of politics by legislative decree.

Are the present commissioners incapable? If so the fact has not been brought before me, and I have heard the charge made nowhere. Indeed, it is the subject of public discussion that Kings county never had better charity commissioners than those in the present board. If this is true it would be worse than unjust to them to turn them out of office — it would be a misfortune to the public. The plea for a single-headed commission will deceive no one. The present board of commissioners commands public confidence, and a majority of the best people undoubtedly desire it to be continued in its present control. There does not seem to be any publicly-expressed sentiment anywhere, except in political circles, in favor of a single-headed commission, if the price of such a commission is the exclusion of the present commissioners and the turning over of the department of charities to the manipulations of designing politicians. The interests of good legislation and of good government demand that the Executive should refuse his approval to the bill."

May 12.

Veto of Senate bill entitled "An act relative to the New York and Brooklyn bridge."

"Although this is an important bill, legislating out of office, as it does, the four trustees of the New York and Brooklyn Bridge and providing for the appointment of their successors, only two communications have been filed with me in favor of the measure. One is from a prominent citizen of Brooklyn, and the other is a three-line request from the local authorities of Brooklyn for my signature to the bill.

Not a single charge of mismanagement against the present trustees has been laid before me; not a single argument has been presented to me why they should be put out of office before the expiration of the terms for which they were appointed. Such legislation is nothing but an audacious grab for political spoils. It is unworthy of the lawmaking power. There is not even a semblance of justification for it.

As a matter of fact when the bill was before the Legislature and the discussion brought out some vague charges from the introducer of the bill against the management of the bridge, the trustees in a formal communication to the Senate requested an investigation into the charges and an opportunity to be heard in reply. This request was ignored. Thereupon the trustees appeared by counsel before an Assembly committee and renewed the request, denying all the charges which had been made. No investigation was permitted. Instead the bill was rushed through the Legislature as a party measure, and in that shape it is before me — with nobody frank enough to be its sponsor except one private citizen and the representative of the Mayor of Brooklyn, who under the terms of the bill would make half the appointments if the bill were signed.

The present trustees have been in office about a year. Prior to April, 1893, the board consisted of twenty trustees, but so large a board was unwieldy and by chapter 278 of the Laws of 1893 the number was reduced to four. Even if all the vague charges made on the floor of the Senate as an excuse for the passage of this bill for the removal of these four trustees were true, it would still be no justification for this bill but rather for the legislation of a year ago, for every alleged cause of complaint against the management of the bridge took place prior to the law of 1893 under which the present trustees were appointed.

It is difficult to treat such political legislation seriously. The great State of New York is degraded by it. Partizanship will always, perhaps, influence legislation to some extent, but legislation of which we have had so much recently — legislation which consists wholly of partizanship, and which in measure after measure represents no higher purpose than an attempt to secure political patronage — such legislation is a base and demoralizing prostitution of the law-making power."

May 12.

Veto of Assembly bill entitled "An act to amend chapter fifty-one of the laws of eighteen hundred and seventy, entitled 'An act to amend the act for the incorporation of benevolent, charitable, scientific and missionary societies,' passed April twelfth, eighteen hundred and forty-eight."

"This bill is made general in form so as to obviate the necessity for special legislation, but I am inclined to think that special legislation in this case would be more desirable than general legislation. The bill amends the act for the incorporation of benevolent, charitable, scientific and missionary societies by permitting such societies to establish and maintain cemeteries. This might be an unwise power to confer upon all the associations incorporated under this act. Already in some parts of the State, as I pointed out in a veto message last year,* every new dedication of public land to cemetery purposes is bitterly opposed by the citizens of the locality. This is especially true of the counties of Queens, Rockland and Westchester; and although this bill exempts Queens county from its operations, I cannot but think that it might work injustice in other counties of the State."

May 12.

Veto of Assembly bill entitled "An act to amend the railroad law."

"The amendment proposed by this bill provides that, in cities of one hundred thousand inhabitants or under, any street surface railroad corporation which shall have constructed, or may hereafter construct, additional routes so as to provide a continuous service between terminal points, or which, by consolidation or merger of two or more roads, has more than one line of road between terminal points, may declare any portion of its own road, which it may deem no longer necessary for the successful operation of its road, to be relinquished or abandoned upon the same conditions as are now required by law in the case of abandonment of any portion of the route when one road has been leased by another.

Although these conditions are reasonably severe, I am inclined to think that the privileges conferred by the proposed amendment are too great and might work injustice to

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***Ante*, p. 254.

existing rights in the cities and villages of the State which would be included within the operation of the proposed law.''

May 12.

Veto of Assembly bill entitled "An act relative to defraying the expenses of operating the lift and swing bridges along the lines of the State canals."

"This is an act compelling the State to pay the expenses of operating swing and lift bridges along the lines of the canals. The operating expenses of these bridges are now paid for by the localities in which the bridges are situated, as was provided in the laws under which the bridges were constructed. This provision is proper and just. Even were the bill approved it would be a nullity, for the present at any rate, for there is no appropriation in it with which to carry out its provisions. The cost of the operation of the bridges referred to would require an expenditure by the State of between forty and fifty thousand dollars a year.''

May 12.

Veto of Assembly bill entitled "An act to amend the game law, relating to stocking from streams."

"This bill would give all persons free access to any private pond or stream which had been heretofore stocked, or might hereafter be stocked, wholly or in part with trout from State waters or State fish hatcheries. It seems to me that this would be an unwarranted interference with private property, for no matter how much justice there might be in making such a requirement for the future the State has no right to make public fishing places of private streams or ponds which at some time in the past might have received trout from the State hatcheries or State waters.''

May 12.

Veto of Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relating to the construction of buildings."

"This is a radical and dangerous measure. Its obnoxious provision consists of the second section, which permits elevators to be put in the well-hole of stairs in buildings without brick or fire-proof inclosures when the stairs are inclosed in brick or stone wall and are constructed after a certain pattern, or when elevators are operated by water from high-pressure street mains in buildings provided with apparatus also operated from such mains for extinguishing fires. The effect of this section is to break down all the wise and important safeguards contained in the building law of New York city for the protection of structures from fire. No feature of the building law is of greater importance to the preservation of life and property than that which governs the proper construction and regulation of openings between floors. If these openings can be made the means of communicating fire, and of conducting smoke from one floor to another, they are converted from safe means of exit into roaring flues. It is of supreme importance that elevators and stairs should not be combined in a single shaft. Even if the construction of that shaft were of incombustible materials smoke from the contents of the building might pour up through such a shaft in volumes sufficient to make the shaft absolutely useless to persons endeavoring to escape from the burning building, or to firemen endeavoring to go from one floor to another. The law now, therefore, requires that stairs and elevators shall be in separate and distinct openings. The law, moreover, requires that elevator shafts be inclosed with suitable walls of brick, or with suitable framework of iron, burnt brick, etc., to be approved by the superintendent of the building department.

It is hardly necessary to say that it is not the motive power — whether steam, electricity or water — that contributes to fire, but it is the greasy vertical posts up and down which the elevator is guided that carry the fire with lightning rapidity from the basement to the roof and ignite from all floors.

If this bill were allowed to become a law the danger of destruction of life and property by fire would be greatly increased."

May 12.

Veto of Assembly bill entitled "An act to amend the game law, relating to fishing through the ice."

"This bill is defective in form — amending as it does the wrong section of the game law. Moreover, it would conflict with chapter 627 of the laws of the present year, which amends the same section generally."

May 12.

Veto of Assembly bill entitled "An act relative to the Supreme Court of the Second Judicial Department."

"This bill is defective in form. It should amend the Code of Civil Procedure."

May 12.

Veto of Assembly bill entitled "An act to amend the Code of Criminal Procedure, relating to witness fees."

"This amendment provides for the payment of witness fees to every witness residing within the county. This would seem to include witnesses for the defense as well as for the prosecution. I should think the provisions now in force were sufficient. Our criminal courts are already too great a tax upon the people."

May 12.

Veto of Senate bill entitled "An act to amend section twelve of chapter three hundred and ninety-nine of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to taxable transfers of property.'"

" This bill doubles the compensation of appraisers appointed by surrogates in the settlement of estates. The tendency of legislation is to make legal proceedings more expensive. I have disapproved most bills of this kind and do not think it wise to depart from the rule in this case."

May 12.

Veto of Assembly bill entitled "An act to correct manifest errors in the general laws."

" This is a bill, as its title indicates, to correct manifest errors in the general laws, but the bill abounds in manifest errors of its own, and for this reason ought not to be approved."

May 12.

Veto of Assembly bill entitled "An act to regulate the putting up for sale, use or giving away of poisonous liquids."

" This bill prohibits the giving away or selling after October first, next, of any poison or poisonous substances in liquid form, except in fluted bottles labeled in the manner heretofore provided by law. The questions at once suggest themselves: What is meant by 'poison or poisonous substances'? Why should the act be limited to poisons in liquid form, and what is meant by 'fluted' bottles? A measure of this kind might be of service, but it should be more carefully worded so that it would not require a decision of the courts immediately to determine what it meant. A fluted bottle may be any one of a dozen or more different styles. Poisons and poisonous substances are very indefinite words."

May 12.

Veto of Senate bill entitled "An act to regulate the compensation of laborers employed by the city of Brooklyn, under contract or otherwise, except skilled laborers."

"I do not think that the Legislature ought to assume the function of regulating the rate of wages paid to day laborers in any particular city of the State. That is a matter of local concern and it should be left to the discretion of local authorities. Our municipal and village charters do often fix the salaries of officials, and when these salaries are changed they must be changed by the Legislature; but the rate of wages to day laborers is not fixed by charter provision and should, therefore, be entirely discretionary with the local authorities. Should the Legislature assume this prerogative as a custom, it might exercise its power at times improperly and endeavor to cut down as well as to increase the wages."

May 12.

Veto of Assembly bill entitled "An act to authorize the city of Brooklyn to construct public piers at the foot of North Seventh street in the city of Brooklyn, and to acquire land necessary for the same, and to provide for the payment therefor."

"There seems to be no public sentiment in favor of the construction of this pier, and the local authorities of Brooklyn are opposed to it, holding that no pier is required at this point. By chapter 440 of the Laws of 1892, the city of Brooklyn was authorized to build a pier at the foot of North

Second street, which is an important thoroughfare, and is only five blocks from the place where a pier is proposed to be built by this bill. Owing to the financial condition of the city's affairs, no proceedings under that act have yet been taken, but I am informed that it is the intention of the city authorities to undertake the construction of a pier at the foot of North Second street as soon as possible. There does not seem to be any necessity for an additional pier at North Seventh street, and the expense of constructing one would be an unnecessary burden upon the city."

May 12.

Veto of Assembly bill entitled "An act in relation to the exemption from taxation of the real property of 'The Pythian Association' of the city of Amsterdam."

"I refused last year to give my approval to numerous special bills exempting the property of various associations from taxation, and subsequently a general law was passed to include the most worthy of these applicants. Special legislation of this kind is bad in principle and in practice. It leads to favoritism and discrimination, and having refused to approve bills similar to this, I cannot well make an exception in favor of this measure."

May 12.

Veto of Assembly bill entitled "An act authorizing the construction of a stone wall along the edge of the towing path of the Erie canal and on the west line of property known as number ten Austin street, in the city of Buffalo, and making an appropriation therefor."

"There is no legal obligation on the part of the State to construct this wall, and the appropriation is in the nature of a gratuity."

May 12.

Veto of Assembly bill entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon,' relating to schools."

"There are some good provisions in this bill, but the one which constrains me to withhold my approval is that which authorizes the common council of the city of Mount Vernon to issue bonds of said city for the amount of taxes remaining unpaid, for the collection of which warrants shall have been issued from year to year. I am of the opinion that it is not good policy to permit a board of education or a common council thus to issue bonds annually for the amount of taxes returned by the tax collector as unpaid. It appears to me to be placing a premium upon the nonpayment of taxes, and is unfair to those who do pay their taxes regularly when called upon."

May 12.

Veto of Assembly bill entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

"This bill is disapproved, because it exempts from State taxation the bonds authorized to be issued."

May 12.

Veto of Assembly bill entitled "An act to incorporate the 'Children's Aid Society of Rochester.'"

"There is no necessity for a special act for the incorporation of this society. Existing general laws are already sufficiently broad."

May 12.

Veto of Senate bill entitled "An act to legalize all assessments for local improvements heretofore made in the city of Watertown."

" This is a duplicate of a bill already signed." [Chap. 495.]

May 12.

Veto of Assembly bill entitled "An act for the relief of Sophia G. Vandervoort, widow of Charles Vandervoort, deceased, her successors or assigns."[35]

" This is a bad bill — reviving as it does an old claim which ought to have been dead years ago. It originated in the building of a market in New York city in 1869, and whether there was ever any justice in it or not it is outlawed by this time. The bill itself is particularly objectionable in form."

May 12.

Veto of Assembly bill entitled "An act conferring jurisdiction upon the board of claims to hear, audit and determine the claims arising from the grant by the State to Archibald McIntyre, individually, and as executor, and his successors in interest and subsequent grantees and owners and their personal representatives, and to make an award therefor."

" Without recounting the entire history of events leading up to the origin of this claim, it is sufficient to say that when the alleged damage to the claimants began — namely, in the year 1875 — the interested parties filed a claim against the State before the canal appraisers for $45,000 for being deprived of the use of water from the canal. The claim was heard by the canal appraisers, and an award of nothing was made on the ground that under the law and according to the grant of privileges, the canal appraisers had the right at any time to resume the use of the waters for the purposes of navigation. This disposition of the matter was made nearly twenty years ago, and the Legislature cannot at this late day revive the claim. The bill, therefore, is unconstitutional — the claim being barred by the statute of limitations."[m]

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[35] An act for the relief of Sophia G. Vandervoort was passed in 1895, chapter 167. This act was held unconstitutional in Chrystal v. New York (1901), 63 App. Div. 93.

May 12.

Veto of Senate bill entitled "An act conferring jurisdiction on the board of claims to hear and determine the claim of John Bray for injuries sustained by him at the hands of a convict at Auburn state prison while on duty as a keeper in said prison."

"Such claim bills as this are occasionally enacted, but it is customary in each such bill to prescribe the limit of compensation which may be allowed as damages. There is no such limit in this bill, and, therefore, I have not approved it."

May 12.

Veto of Assembly bill entitled "An act to authorize the board of claims to hear, audit and determine claims for military uniforms for the National Guard of the State of New York, and to make an award therefor."

"This bill covers an old claim, and in a different form was vetoed by me last year.* The claim was never a legitimate one against the State. The indebtedness was incurred by officers, most of whom have been for a long time out of the service. It was not incurred under or pursuant to any law of the State, and there was no misapprehension about the law, at least so far as the officers were concerned. It was a personal matter between the dealers and the officers giving the order. I do not think that jurisdiction to hear this case should be conferred upon the Board of Claims."

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[m] Const. 1846, Art. 7, § 14, added 1874.

* *Ante*, p. 237.

May 14.

Veto of Assembly bill entitled "An act to repeal section two of chapter four hundred and ninety-nine of the laws of eighteen hundred and ninety-three, entitled 'An act concerning the canals and experimental work thereon.'"

"In pursuance of the recommendation of my annual message the Legislature of 1893 passed, practically without opposition, an act (chapter 499) authorizing the Superintendent of Public Works to conduct experiments looking to the use of electricity as a motive power on the canals. The second section of that statute conferred upon him also the authority to permit any person or corporation to construct and operate electrical conductors along the canals upon such terms and conditions not inconsistent with the public use of the canals as he might impose. It is this second section of the act, and this authority to grant a permit, which the bill before me would repeal.

The repeal bill was introduced in the Legislature before any permit had been granted under the act of 1893. Subsequently, however, and before the bill's passage in either house, a permit was granted by the Superintendent of Public Works, and its terms became the subject of inquiry by a legislative investigating committee. Whatever might have been the reason for introducing the repeal bill prior to this time, the effect of passing it after the contract had been made and after its terms had been carefully examined by a legislative committee could only be to create a monopoly. For no legislative act can impair a contract,* and the contract which had been entered into by the Superintendent of Public Works with the Cataract General Electric Company would not be annulled by the enactment of this bill. The effect of the passage of this bill, therefore, and its approval, would be to confer upon the Cataract General Electric Company a complete monopoly, so long as the conditions of the contract were observed, and the Superintendent of Public Works would be without authority to grant any similar permits to other corporations or individuals.

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* U. S. Const., Art .1, § 10.

While this result, brought about by act of the Legislature after a careful inquiry into the terms of the contract, would be a strong endorsement of the advantage to the State of that contract, I cannot but think it unwise thus to bind the State to the one contract already made and to prohibit the Superintendent of Public Works from entering into other contracts with other corporations in case the Cataract General Electric Company failed to comply with the conditions imposed upon it or failed to complete the project of furnishing electric power for canal purposes between Buffalo and Albany within three years, as it is required to do by the contract. While sharing, therefore, the legislative approbation of this contract, as implied by the passage of the bill before me, I think the authority conferred by the act of last year should remain unrepealed.

The contract alluded to has been so persistently misrepresented in some quarters and its advantages to the State have been so little understood that I am glad of this opportunity of calling public attention to its principal features. I do this the more confidently because of the official interest which I have taken in the adoption of electricity as a motive power on the canals, and because this particular contract was drawn under my supervision after consultation with men best equipped with the knowledge and experience required for the task.

Assuming the feasibility of using electricity as a power in propelling canal boats, and its superiority over steam, horse and mule power, the question presented is whether the State itself shall establish and operate the necessary electric plant, or whether this shall be left to private enterprise. Clearly the only advantage of the State's incurring this enormous expense is to be able to control the rates at which the electric power shall be furnished to boatmen. If the State can control the rates and regulate the construction and use of the electrical conductors, it is much better that the establishment and operation of plant should be left to private enterprise. The utilization of Niagara Falls as a water power made it possible for one corporation to offer the State particularly favorable terms for permission to furnish electricity for the propulsion of canal boats, and the negotiations thus opened have resulted in the contract under discussion. The contract meets the condition above alluded to as the preliminary requisite for entrusting the project to private enterprise, namely — that the State should control the rates charged for furnishing electric power and should regulate the construction and use of the conductors. Some of the features of the contract are as follows:

1. *As to the use of other motive powers.* Upon this point the contract is very explicit. The construction of dynamos, conductors, etc., and the transmission of electricity, must in no way interfere with any present method of navigation on the canals. The mule, the horse, or the steam engine, can be continued in use if any boatman so desires, and the use of electricity must not impair the free use of these other motive powers. If there is any such interference the Superintendent of Public Works has power to abolish it and to remove the poles or the trolleys, or other constructions built by the company.

2. *As to the cost of the electric power to boatmen.* The contract binds the company to furnish power for trans-

portation at such a price as shall be fixed by the Superintendent of Public Works, but which in any event shall not exceed the sum of twenty dollars per electrical horse power for the season of navigation.

Assuming that the maximum rate of twenty dollars per horse power should be charged it will be interesting to compare this price with the cost of present motive powers. The cost of horse and mule power is not less than one hundred dollars for the season of navigation, or five times the cost allowed to be charged by this contract. But even this is not a fair comparison, for by mule and horse power a canal boat is propelled on the average about two miles an hour, while by electric power it could be propelled four miles an hour or more. This contract, therefore, gives electric power to boatmen at one-fifth the cost of animal power and permits twice the speed.

Steam power costs on the average from twenty-five to thirty-five dollars per season of navigation and yields a speed of about three miles an hour. Electric power under this contract would probably cost a third less than steam and would yield an increase of fifty per cent. in speed.

Comparisons with rates now charged in New York city for electric power show even more advantages on the side of this contract. The Edison General Electric Company charges in New York ten cents per horse power an hour, with reductions for large customers of from twenty per cent. to users of from 100 and 200 horse power to fifty per cent. to users of 1,500 horse power and over. At the rate of fifty per cent. reduction, this would bring the cost for seven months (the season of navigation, approximately) to $252, as against the twenty dollars permitted by this contract.

When these figures are considered, twenty dollars a horse power per season seems an exceedingly low cost, but the contract is so worded that if it should be ever deemed too much, the Superintendent of Public Works has the power to reduce it to as low a point as may seem to him fit. Therefore, the State as absolutely controls the price of the electric power as if it owned the plant, and has none of the expense of construction.

3. *As to State ownership.* If at any time the State should desire to own the plant, the contract provides for this contingency.

There are minor features of the contract which need no elaboration. They safeguard the State's interests and those of the canal boatmen in every possible way.

I am convinced that if the terms of the contract are carried out by the company, as I hope they will be, a new era of prosperity will open for the canal. The great need of this waterway, to-day, is more rapid and more economical transit, and I believe this is the way to secure it. I cannot imagine why, with an electric motive power to be had on one side of the canal at one-fifth the cost and furnishing twice the speed, a boatman would go to the other side of the canal and depend on mule or horse power. Of course every step forward in transportation arouses the opposition of those who are injured by it. The stage-driver cursed the locomotive. So the owner of the steam tugs begrudges the introduction of electricity on the canals, if it is likely to take away his business. But progress in the Empire State did not stop at the demand of the stage-driver; nor will it stop at the demand of the owner of steam canal tugs. The commercial interests of six and a half million people will demand some means of increasing the business of our waterways, and if electricity is the most feasible factor for bringing about that result. it will come into use. I am firmly convinced that its introduction as a motive power will double the canal's carrying trade and give new life along its banks. Such increased business will mean more employment of labor, not less, and more prosperity for all parts of the State."

May 15.

Veto of Assembly bill entitled "An act to revise the charter of the city of Yonkers;"

Assembly bill entitled "An act to revise the charter of the city of Watertown;" and

Assembly bill entitled "An act to incorporate the city of Little Falls." [See note 8.]

"These bills are disapproved because they all nullify the provisions of the new bi-partisan election inspectors law which I approved on April twenty-fourth last. That law was general in its application, and was intended to secure bi-partisan election boards uniformly throughout the State, at municipal as well as at general elections. It was passed by the Legislature before either of these three bills was passed. These measures were therefore sent to the Executive with the full knowledge of the passage of the general bi-partisan inspectors bill, and they plainly were intended to exempt the cities of Yonkers and Watertown and the proposed city of Little Falls from the provisions of that general law.

It is unfortunate that a sentiment should so quickly manifest itself in the Legislature to break down the operation of this desirable reform. The bi-partisan election inspectors law was a step forward in the direction of honest elections, these bills are steps backward. They provide, in different ways, for partisan election boards in each city. By the Yonkers charter amendment all the three inspectors whose appointment is authorized might be of the same party.

If bi-partisan election boards had been tried and found unsatisfactory as means of promoting purity in elections, there might be some justification in changing the law, but even then such changes should apply uniformly throughout the State. To exempt gradually one city after another from the operation of the law would be wrong in principle, and would eventually break down the entire system. Every such proposed exemption should be resisted.

In addition to this feature two of these bills have other defects, but that amending the charter of Yonkers is particularly objectionable in legislating certain worthy officers out of office. I am informed that as originally introduced in the Legislature the amendments were generally satisfactory to the people of Yonkers, but that during the bill's progress through the Legislature changes were made in it for political purposes, and in that shape the bill has come to me. It is unfortunate that the good provisions should have to be sacrificed for the bad."

May 16.

Veto of Assembly bill entitled "An act to provide for the assessment and collection of the expense of removal of snow and ice from the sidewalks of public streets and avenues in the city of New York."

"This bill is defectively drafted, and, while its object is good, that object could probably not be accomplished under the terms of the bill."

May 16.

Veto of Assembly bill entitled "An act to amend chapter five hundred and twenty-three of the laws of eighteen hundred and ninety, entitled 'An act in relation to the office of sheriff of the city and county of New York,' relating to appointment of deputies and compensation."

"This bill is a serious reflection on legislative consistency. During the closing days of the session the Legislature passed and I subsequently approved a bill abolishing the fees of the sheriff of the county of New York, and providing that he should hereafter receive a salary of $20,000 per annum. This bill, which was passed at about the same time, nullifies the recent law, and, if approved, would restore the old order of things as they existed in the sheriff's office prior to the enactment of chapter 477 above alluded to. If the Legislature was convinced that it is desirable to make the office of sheriff salaried and to make the salary $20,000 a year, it should have stood on that ground and not stultified itself by passing another bill which not only would permit the sheriff to collect and retain the enormous fees which he has formerly received, but would give him the power to appoint fifteen additional deputies at a salary of $2,500 a year each. Such inconsistency of legislation upon questions involving principles of reform is inexplainable. It would be unjust to assume that the Legislature was ignorant of the provisions of this bill, and the only fair supposition is that the Legislature was not particularly insistent upon the enactment of the so-called salary bill.

However, having approved the salary bill, I cannot consistently repudiate that approval by affixing my signature to this bill. Chapter 477 should at least have a fair trial before it is repealed or radically amended."

May 16.

Veto of Assembly bill entitled "An act providing for the record of documents relating to the real estate in the Twenty-third and Twenty-fourth wards of the city of New York."

"As this bill now reads, it would have the effect of recording deeds, mortgages, etc., in New York county hereafter, *nunc pro tunc*, as of the date they were actually heretofore recorded in Westchester county. People who have taken conveyances by deed or mortgage of such property in the meantime in reliance upon searches of title appearing on the records of the proper office in New York county, and who could not show conveyances recorded in Westchester county, might by this act be deprived of their entire interest in the property taken upon the strength of such searches. Probably this result was not intended to be accomplished by this bill, but such would clearly seem to be its effect. There is, of course, no objection to allowing certified copies of real estate documents recorded in Westchester county to be recorded in New York county with the same force and effect as if they were originals, but such record cannot be retroactive without endangering all titles depending on existing records which would be changed by such retroactive effect."

May 16.

Veto of Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relating to the powers and duties of the health department of the city of New York."

"This is the second legislative attempt during the present year to break down one of the important safeguards contained in the building law of New York city for the protection of structures from fire. The previous attempt was contained in Assembly bill No. 1382, which failed to receive my approval.* Identically the same provision to which I objected in that bill is contained in the measure before me. Under this proposed law elevators could be put in the well-hole of stairs in buildings without brick or fire-proof inclosures. The law now requires that stairs and elevators shall be in separate and distinct openings and that elevator shafts shall be inclosed with suitable walls of brick or other fireproof material approved by the superintendent of the building department. This legal

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***Ante*, p. 445.*

precaution prevents great destruction of life and property, and to nullify it by such legislation as is proposed in this bill would be most dangerous."

May 16.

Veto of Assembly bill entitled "An act to amend the town law relating to the compensation of highway commissioner."

" This bill is defectively drafted. It does not mention which section of the town law is to be amended."

May 16.

Veto of Senate bill entitled "An act to amend the county law."

" This amendment would require the closing of the county clerk's office, in counties where the office of county clerk is a salaried office, at five o'clock in the afternoon between March thirty-first and October first. In all other counties the office is required by law to remain open until six o'clock during these months. For the convenience of the public, the law regulating such hours should be uniform and should apply alike to both salaried and fee offices."

May 16.

Veto of Senate bill entitled "An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled 'An act in relation to railroads, constituting chapter thirty-nine of the general laws.'"

" This bill defines what shall be meant by the term ' local authorities ' when used in the railroad law. As to towns, the bill would make the commissioners of highways local authorities within the meaning of the law. I question whether this is wise. The local authorities in towns are in reality the town board, and the term ought to mean that body when used in the railroad law."

May 16.

Veto of Assembly bill entitled "An act to provide conditional compensation for teachers of common schools in any town of the State who have taught therein continuously twenty-five years or more."

" This bill is a legislative recognition of the principle of civil pensions paid by public taxation. For that reason I am opposed to it. The State has thus far wisely restricted the application of this principle to those persons employed in official positions which require risk of life and limb in the performance of duty. Only to a moderate extent and in certain instances, even as to this class of pensions, is the burden a direct one on the people. When legislation has included other classes of official employees, it has provided other means of paying the pensions than by direct taxation. To depart from this policy by permitting payment of pensions to common school teachers by direct tax of the people would inaugurate a system which I can hardly believe the State is ready for. To be sure, this bill is permissive in form and is dependent for its operation upon the affirmative vote of a majority of the electors of the town; but in so far as it embodied a questionable principle of legislation, I prefer not to give it my approval."

May 16.

Veto of Assembly bill entitled "An act to provide for the compensation of election officers."

" This bill increases the compensation of certain election officers. I do not think such an increase in compensation is desirable. While it is necessary that competent men should be chosen to those positions, the rate of compensation ought not to determine the competence of the officers. If there is one public office which good men should willingly fill without regard to the measure of compensation, it is the office of conducting elections. The dictates of patriotism ought to make every man willing to serve in this capacity, and should not allow the rate of compensation to control his disposition to serve his fellow citizens."

May 16.

Veto of Assembly bill entitled "An act to amend section one hundred and sixteen of title two, chapter three of part four of the Revised Statutes, relating to State prisons."

"This bill was introduced in the interest of free labor in order to prevent the manufacture of horse collars in the State prisons, reformatories and penitentiaries. It was amended in the Legislature, so that now, as it comes to me, it prohibits the manufacture of chairs or parts of chairs, or horse collars, but permits the manufacture of unlaundered negligee shirts in the Kings county penitentiary. I am in favor of the prohibition against the manufacture of chairs and horse collars; but the provision with reference to the manufacture of negligee shirts in the Kings county penitentiary would partially set aside and annul the prohibition of existing law against the manufacture of shirts in the prisons or penitentiaries of the State. This permission to one penitentiary would establish a precedent for a gradual breaking down of the entire prohibition against this kind of manufacture. It is opposed by large numbers of employees in the shirt industry, and the choice that is presented to me, therefore, is whether the desirable features of the bill outweigh the undesirable features. Viewed from this standpoint, it seems to me that it would be better to postpone the enactment of the desirable features of the bill until another year rather than to establish the questionable precedent of making exceptions in the general law in favor of particular penal institutions.

I am the more willing to take this course, inasmuch as, after a conference with the Superintendent of Prisons, I am assured by him that the manufacture of horse collars will be discontinued in the prisons as soon as the present stock of material on hand is used up."

May 16.

Veto of Assembly bill entitled "An act to amend chapter three hundred and twenty-three of the laws of eighteen hundred and eighty-seven, entitled 'An act in relation to the labeling and marking of convict-made goods, wares and merchandise manufactured in States requiring the labeling and marking of such goods, wares and merchandise.'" [See note 17.]

"The law which this bill amends is repealed by chapter 698 of the Laws of the present year. The last-named chapter substantially re-enacted chapter 323 of the Laws of 1887, and made it more effective for accomplishing its purpose. Both chapters 698 and 699 of the Laws of this year, which pertain to this same subject, are in better shape than this bill and make this measure unnecessary."

May 16.

Veto of Assembly bill entitled "An act to prevent and punish fraudulent sales of goods, wares and merchandise at public or private sale by itinerant vendors, and to regulate such sales."

"This measure extends the police power of the State somewhat further than it has hitherto been carried by legislation.

The bill is aimed at itinerant vendors who go about from place to place, rent temporary premises and expose for sale a stock of merchandise, which is offered at reduced prices. Such sales, of course, injure the ordinary merchant by offering competition which is hard to meet. They are sometimes conducted by unscrupulous men who attract the public by showy advertisements and low prices and deceive purchasers by the shoddy character of the goods sold. The instinct of reputable business men in a community is aroused against these occasional irresponsible dealers and has found expression in this attempt at restriction by legislation.

Of course a law directly suppressing such traffic could not be passed and would not be valid if it were passed, so this bill merely regulates the traffic and under the guise of raising revenue aims to prevent as far as possible the business of these itinerant vendors. It would compel every person who is engaged in a temporary or transient business in the State, either in one locality or in traveling from place to place selling goods, wares and merchandise, and who for this purpose occupies any building, to obtain from the Comptroller of the State a license which will permit him to carry on his business at any place in the State for one year. To obtain this license the person must deposit with the Comptroller the sum of $500 in cash, must pay to the State Treasurer a license fee of twenty-five dollars, and must in addition to these requirements pay whatever license fee may be imposed by the authorities or ordinances of any locality in which the sales are conducted.

The reasons urged for this legislation are as follows:

1st. That the business of itinerant vendors offers peculiar opportunities for frauds.

2d. That such frauds, when consummated, are practically without redress for the particular individual, for the difficulty of securing such redress amounts to a denial of justice.

3d. That, therefore, the offenses committed by itinerant vendors are offenses against the whole community as well as against the individual, and in consequence that itinerant vendors and their business are proper subjects for regulation by penal law.

When these reasons are closely analyzed and sifted I think it will be admitted that the whole community is after all not nearly so much interested in such legislation as are the regular merchants who suffer most at the hands of the vendors. The impulse for the legislation is mainly a class impulse and, therefore, a selfish impulse. If all that is said of the deceptions practised by itinerant vendors is true, it would be rather a broad exercise of the police power of the State to attempt to regulate such impositions on the public.

If the State should take that step, it might take further steps in the same direction and exercise police scrutiny over the ordinary transactions of business. Every consumer and buyer knows that he is likely to be imposed upon if he buys at certain shops or of certain dealers, and he learns by costly experience that some dealers are to be avoided; but it would hardly be expected that the State should protect him against such risk or impositions, and yet the public could logically expect such police regulation by the State quite as much against the tricky or unscrupulous merchant who plies his trade in one place the year round as against the itinerant vendor who hurries from place to place.

As yet the people are not willing that the State should exert this broad police power over their private affairs, and in my judgment the restrictive legislation proposed by this bill would be repugnant to them. It is class legislation and a restraint upon legitimate trade. I have no fear that honest merchants in any community will be permanently injured by unscrupulous vendors dealing under false pretenses, for if the sales of these itinerant vendors are as generally fraudulent as the advocates of this bill assert, the people will soon learn to leave them severely alone. If the sales are not fraudulent, but legitimate and honest, then this legislation would impose unnecessary hardships and would have no excuse for existence."

May 16.

Veto of Assembly bill entitled "An act to release to Mary Rose Reilly, the only child and heir-at-law of Thomas Smith, deceased, the interest of the people of the State of New York in the property, either real or personal, of which Thomas Smith and Owen Smith, or either of them, died possessed."

" There is nothing before me to indicate why the object of this bill cannot be accomplished under the existing general law relative to escheated lands. Moreover, there is nothing in the bill itself to indicate whether the right, title and interest of the people of the State to the property was acquired by escheat, purchase or foreclosure.''

May 16.

Veto of Senate bill entitled "An act to provide for the payment of rent for certain buildings in Long Island City, used for educational purposes by said city;" and

Senate bill entitled "An act to legalize and provide for the payment of certain claims against Long Island City."

'' The former of these bills, though not in the same form, was vetoed by me last year, and I do not perceive any sufficient reason for changing my attitude towards the measure.* Both bills seek to legalize lawless acts. The claims were incurred under circumstances which scarcely justify a legalization of proceedings carried on without warrant of law. As to one of the claims, the courts have decided that it was invalid. Chapter 646 of the Laws of 1893 makes ample provision for the determination of all valid claims against Long Island City. The local authorities are opposed to the bill.''

May 16.

Veto of Assembly bill entitled "An act for the relief of John C. Ham, formerly of New York city, now residing at New Rochelle, Westchester county, and to authorize the comptroller of the city of New York to inquire into the claim of said John C. Ham, and to issue revenue bonds to pay same, and to authorize the board of estimate and apportionment of said city to make provision to pay said revenue bonds."

'' This bill is defective in form. Bills of this kind, almost without exception, confer authority to inquire into and audit

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***Ante*, p. 253.

claims upon the board of estimate and apportionment and not upon a single officer of the city. In conferring authority in this case upon the comptroller to inquire into the claim, to fix and determine the amount of damages, and to draw his warrant upon the city chamberlain for the amount so fixed and determined, the bill violates this wholesome rule and for this reason is disapproved.''

May 16.

Veto of Senate bill entitled "An act for the construction of a wall on the Erie canal in the town of Verona, Oneida county, from the bridge at Higginsville, west of same, and to make an appropriation therefor."

"This bill is defective in not showing on whose order the money appropriated should be paid.''

May 16.

Veto of Senate bill entitled "An act to incorporate the firemen's benevolent fund association of Mount Vernon, New York."

"This bill is defectively drafted. The association sought to be incorporated has been already incorporated this year by chapter 111 of the laws. The evident intention of this bill is to substitute this act for chapter 111; but it leaves chapter 111 standing unrepealed. By section 10 of the bill: 'Section ten, chapter three of the Laws of eighteen hundred and ninety-four, entitled "An act to incorporate the Firemen's Benevolent Fund Association of Mount Vernon, New York,"' is repealed. There is no such section in chapter 3 of the laws of the present year, and chapter 3 has no such title as is quoted. The bill betrays gross carelessness in construction and great indifference in passage.''

May 16.

Veto of Senate bill entitled "An act to exempt the property of grand army posts from taxation."

"So many special bills exempting the property of various institutions or classes of institutions from taxation have in recent years been passed in the Legislature, that a year ago I refused to sign any more special bills of this character — insisting that a general law sufficiently comprehensive should be framed to answer all proper purposes and to embody the general policy of the State with regard to exemptions from taxation. All additional legislation of this kind should amend the general law. I have already refused to give my approval to several special bills passed during the recent session of the Legislature, and consistently with that course, therefore, I cannot affix my signature to this bill, no matter how deserving its object may be."

May 16.

Veto of Senate bill entitled "An act to authorize the board of education in union free school district number six, in the town of Ontario, county of Wayne and State of New York, to issue bonds for the purpose of purchasing a site and erecting a union free school house in said district."

"This bill is unnecessary. It simply authorizes union free school number six in the town of Ontario to do what it already has the power to do under the consolidated school law relating to union free schools."

May 16.

Veto of Assembly bill entitled "An act to prevent the drawing of seines and to protect spawning beds in Croton bay, south of Croton point."

"This bill is defective in form. It should amend the game law. Moreover, I am not entirely convinced that it would not work injustice to men who gain their livelihood by fishing."

May 16.

Veto of Senate bill entitled "An act to amend chapter three hundred and seventy-one of the laws of eighteen hundred and ninety-three, entitled 'An act to revise and consolidate the several acts in relation to the village of Dansville, and to revise and amend the charter of said village, and to repeal certain acts and parts of acts,' and to create a police fund, and define the jurisdiction, powers and duties of the police justice and policemen of said village."

"As this bill was introduced into the Legislature it gave very general satisfaction to the people of Dansville. Its enactment in that shape was desired by all the village authorities and by a majority of the taxpayers irrespective of party affiliations. The measure had no political significance and no politics entered into the question of its enactment. It provided for the appointment of a police justice at a salary of $500 a year. Heretofore the criminal business has been done by the justices of the peace and town constables and has become onerously expensive — costing last year more than $2,200. It was believed that more effective services could be obtained by the appointment of a police justice, who should be paid a compensation sufficient to enable him to give a large part of his time to the discharge of his duties, and it was thought that the sum of $500 would be a sufficient compensation for a capable man.

After the bill had been introduced in the Legislature, however, political influences were directed against it and the measure was so amended as to reduce the salary of the police justice to $200 and to make other material changes. The result is that public sentiment in Dansville toward the bill has radically changed, the people believing that the proposed legislation in its present shape would nullify the object sought to be accomplished by the original bill, for it is not believed that a man capable of performing the duties of police justice properly can be secured for $200 a year. Consequently, citizens of Dansville have united with the board of town auditors and the trustees of the village in requesting me to withhold my approval from the measure. This request I have complied with, regretting, however, with them, that so desirable a reform has been frustrated by legislative interference. The action of the Legislature in this case was practically a denial of local self-government."

May 17.

Veto of Senate bill entitled "An act to amend chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to banking corporations.'"

"Chapter 705 of the laws of the present year, which was signed a few days ago, amends the same sections of the banking law as are proposed to be amended by this bill. The enactment of this bill now would consequently nullify the provisions of chapter 705. There is no particular necessity for the enactment of the bill before me, for the reason that it simply legalizes what the Court of Appeals has already declared to be legal under the banking law of 1892."[n]

May 17.

Veto of Assembly bill entitled "An act to amend the railroad law relating to receipts for freight."

"The effect of this bill is to compel every railroad company, upon a request of a consignor, to cause one of its agents to be present during the loading of each of its freight cars, who shall keep an accurate account of the number of packages or parcels received for each car; and the company is further required to deliver to the consignor of such freight a receipt specifying the number of packages or parcels received by the corporation, from whom received and to whom consigned. Any railroad corporation failing to comply with these provisions is made liable to a penalty of twenty-five dollars for each offense.

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[n] See Elmira Sav. Bank v. Davis (1894), 142 N. Y. 590.

Such a requirement would entail unnecessary expense on the railroad companies and would afford the shipper no greater protection than he now has. Railroad companies are responsible, as common carriers, for goods received by them, and any loss incurred by the shipper through the negligence of the company or its employees can be sued for and a recovery had in court."

May 17.

Veto of Assembly bill entitled "An act to prohibit the obstruction of the flow of surface waters within the State, so as to prevent the natural discharge thereof from lands above such obstruction."

"This bill would add a penalty to the common law liability of persons who obstruct the flow of surface water over their lands so as to prevent the natural discharge thereof from the lands of others. To add a penalty when the person is already liable for damages, seems to me uncalled for. A somewhat similar bill was vetoed by me last year." *

May 17.

Veto of Assembly bill entitled "An act to provide for a hearing of the claims of William Lockman and Carey Devery for work and services performed for the State under the direction of the quarantine officials, and to make an award therefor."

"These are old claims which have already been heard once by the Board of Claims and I see no reason for compelling the board to grant a new hearing."

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*_Ante_, p. 247.

May 17.

Veto of Senate bill entitled "An act to amend section six hundred and eighty-two of the Code of Civil Procedure, relating to liens on real property."

" This is a questionable bill. It allows the court, on the application of a third party, to discharge attached property from the lien of the attachment. The present method is good enough and probably much better than the proposed legislation."

May 17.

Veto of Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' so as to secure the more efficient cleaning of the streets, avenues, public places, wharves, piers and heads of slips in said city."

"All that this bill contains is included in chapter 368 of the laws of the present year, and the enactment of the bill would repeal all those provisions of chapter 368 which are not contained in this measure."

May 17.

Veto of Senate bill entitled "An act to authorize and provide for the construction of a tunnel under Newtown creek, for the purpose of public travel between the counties of Kings and Queens."

" Some means of facilitating public travel between the counties of Queens and Kings across Newtown creek are undoubtedly needed, but from the evidence before me I am not convinced that that object will be accomplished to the satisfaction of a majority of the people by the enactment of this bill. The bill provides for a tunnel which shall be built under the direction of a commission named, and at a cost of not exceeding one million dollars — half of which shall be borne by the county of Kings and half by the county of Queens. Both counties, through their boards of supervisors, have filed with me protests against the bill, and in these protests they have been joined by the mayors of Brooklyn and Long Island City, respectively. It is pointed out by the opponents of the bill that such a tunnel as is proposed cannot be built for one million dollars, but that the cost is quite likely to reach three and a half million dollars. It is argued moreover that the most satisfactory way of furnishing improved facilities for travel is not by the building of a tunnel, but by the construction of swing bridges. In Chicago the tunnels built under similar circumstances have been practically abandoned as thoroughfares except by railroad companies. People seem to prefer bridges to tunnels.

Both the city of Brooklyn and the county of Kings have already nearly reached their limit of indebtedness, and in their present financial condition it seems to me that it would be unwise to impose this additional burden upon them.

Judging from my correspondence, the bill is particularly opposed by taxpayers owning small homes, who dread the imposition of more taxes, fearing that their homes would be taken away from them.

In view of the opposition to the bill among citizens generally and by the local authorities in both counties, I am constrained to withhold my approval."

May 17.

Veto of Assembly bill entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' in relation to the department of fire."

"One of the sections of the Brooklyn charter amended by this bill is also amended by chapter 708 of the laws of the present year, which I recently signed. The signing of this bill would, therefore, practically annul that portion of chapter 708."

May 17.

Veto of Assembly bill entitled "An act in relation to the Justices' Courts in the city of Brooklyn."

"This bill provides for the creation of two new justices' courts in the city of Brooklyn. I am informed that there is no necessity at present for additional justices in that city. The bill would impose a useless additional expense of about $40,000 a year upon the city. I do not believe the people of Brooklyn desire any unnecessary increase to their burden of taxation. The measure is clearly a partisan one and is the more subject to criticism on this account, inasmuch as partisanship and the public welfare are in this case conspicuously inconsistent."

May 17.

Veto of Assembly bill entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' by creating a new department, to be known as the department of street cleaning."

"This bill is not only defectively drafted, but it would take away from the present commissioner of city works important powers which he now possesses and which he is employing to the apparent satisfaction of the people of Brooklyn."

May 17.

Veto of Senate bill entitled "An act to amend chapter four hundred and nine of the laws of eighteen hundred and eighty-six, entitled 'An act to regulate the employment of women and children in manufacturing establishments, and to provide for the appointment of inspectors to enforce the same.'"

"The purport of this bill is to permit the employment of children in brickyards by exempting brickyards from the operation of the law regulating child labor. The proposed legislation is bad as a precedent, for it would invite other attacks upon the integrity of the child labor law which it took years of agitation to pass. It is objectionable, also, in its application to this particular industry. The investigations of State factory inspectors have revealed a deplorable state of affairs with reference to the employment of children in brickyards. Children of nine, ten, eleven and twelve years of age were set at work as early as three o'clock in the morning and compelled to work until afternoon. This condition of things was changed by the enforcement of the law, but this bill would restore it. The measure would be a step backward in industrial legislation.

I am aware that the enactment of the bill is urged upon the ground that the present law does not, by a literal construction of its terms, cover the employment of child labor in brickyards and that this bill is merely designed to make the meaning of the statute plain. But I am not ready to accept such a construction, and if there is any doubt about the scope of the present law, the extent of its application can be determined by the courts."

May 17.

Veto of Assembly bill entitled "An act to amend the election law, being chapter six hundred and eighty of the laws of eighteen hundred and ninety-two." [See note 7.]

"From the second day of January last until the day before final adjournment the Legislature was considering the form of a blanket ballot bill, and was apparently unable to agree as to the provisions of such a bill, so radical were the differences between the two houses. But no sooner did I, in order to avoid misunderstanding as to my attitude, communicate to the Legislature in a special message during the last week of the session what kind of a bill I would not sign,* than, presto, all differences in the Legislature suddenly disappeared and it sent to me after adjournment just the kind of a measure I had refused to sign. In view of the impossibility during four months for the Legislature to agree upon the form of a bill which it desired to have become a law, with the probable result of passing no bill at all, this action at the end of the session after the transmission of my special message cannot be regarded in any other light than as an attempt to defeat any ballot legislation whatever by sending to me a bill which I could not sign and could not return with my objections before adjournment so as to permit the enactment of a law providing for a simple blanket ballot.

The main objection to the bill is to that feature which provides for the so-called individual paster. This provision supplies a margin at the foot of the official ballot whereon an elector who desires to vote for any person not on the official ballot may paste separately one name for each office desired to be voted for. In case the elector desires to vote an entire ticket made up of persons whose names were not on the official ballot he would have to apply as many individual pasters as there are officers to be voted for. Such an elector at the last gubernatorial election in New York city would have had to apply seventy-two individual pasters. It is absurd to give such a provision any serious consideration. Every man of common sense would at once repudiate it. How can it be reconciled with the recently published opinion of Messrs. Carter, Bliss, Hornblower, Peckham, Choate, Stetson, Root, Cole, Dillon, and Parsons, that 'any ballot act which does not afford all voters, whether illiterate or not, an opportunity and *reasonable facilities* for voting for such a person [that is, for a person whose name is not regularly nominated], is unconstitutional'?

**Ante*, p. 393.

Under this provision also an illiterate could not vote for any person whose name is on the official ballot, except with the aid of a sample ballot, whose assistance in case he desired to vote a mixed ticket would be confusing and discouraging.

But, again, the use of the individual paster opens the door to a sure means of identifying a corrupt ballot. There is no easy way under the present law for those who wish to bribe voters to know absolutely whether the voter votes as he is bribed or not, so that the money spent in elections for this purpose is, in my opinion, largely wasted. Identification to some extent will be possible under any ballot law, but it should be rendered as difficult as possible. This bill greatly facilitates it, and, therefore, encourages corruption. An election worker could arrange with his 'blocks of five' to attach to the margin of the official ballot a paster containing a fictitious name for some obscure office, and the canvass of the ballots by the inspectors would show absolutely and without dispute whether the voter carried out his corrupt agreement.

So long as a paster of some kind must be permitted, as is now generally agreed by all constitutional lawyers, the questions recurs as to the simplest kind of paster which may be used. Upon this question, all who have given the subject careful thought must advocate the blanket paster. It is much more convenient than the individual paster, and is not so likely to be used for corrupt purposes. It facilitates voting, while the individual paster obstructs voting. It has no objectionable features which do not inhere in even greater degree in any kind of a paster. There are the same reasons for a blanket paster as exist for a blanket ballot. The blanket ballot is urged because one ballot is easier to handle than a dozen; and so the blanket paster is urged, because it is easier to vote than seventy-two individual pasters. The blanket ballot is essential alike to the illiterate, the incompetent and the independent. With such a weapon independent voters, by concurrent action, can frustrate the plans of politicians and rebuke the tyranny of caucus and convention."

May 17.

Veto of Senate bill entitled "An act to amend chapter three hundred and ninety-eight of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for a convention to revise and amend the constitution,' as amended by chapter eight of the laws of eighteen hundred and ninety-three."

"This bill amends the Constitutional Convention act by authorizing the convention, in its discretion, to submit to the people for their adoption or rejection the whole of the Revised Constitution at the general election next November, or at the general election in November, 1895, or to submit part of the amended Constitution at next fall's general election, and the remainder at the general election in 1895.

This, in my opinion, confers altogether too much discretion upon the Constitutional Convention. It is contrary to the policy adopted and followed in submitting the Revised Constitutions of 1821, 1846 and 1867. Upon each of these preceding occasions it was thought best to submit the Revised Constitution at one election. I am convinced that this policy was the wisest one, and that the precedent thus established should be followed in the submission of the amendments which are to be recommended by the convention of this year. The Legislature has already provided that the amendments, or Revised Constitution, shall be submitted by the convention to the people at the general election next fall, and that the amendments, or the Revised Constitution, shall be voted upon as a whole, or in such separate propositions as the convention shall deem practicable, or as the convention shall by resolution declare. This is following the precedents of the past, and is the policy which I am sure will give the greatest satisfaction to the people."

May 17.

Veto of Senate bill entitled "An act to amend chapter eight of the laws of eighteen hundred and ninety-three, entitled 'An act to amend chapter three hundred and eighty-eight of the laws of eighteen hundred and ninety-two, entitled An act to provide for a convention to revise and amend the constitution.'"

" This bill provides for the taking of testimony before a county judge, Supreme Court judge, Superior Court judge, or the judge of any City Court, in cases of contested elections of delegates to the Constitutional Convention.

Part of the bill reads as follows:

' The following fees shall be allowed to an officer or judge issuing such summons and taking such examination: For issuing the summons, twenty-five cents; for the notification of the opposite party, twenty-five cents; for administering an oath or affirmation, twelve and one-half cents; for reducing the testimony of each witness to writing, ten cents for each folio and five cents for every copy thereof for each folio; for certifying the testimony and inclosing the same to the Secretary of State, twenty-five cents.'

This provision is clearly unconstitutional under article VI, section 21 of the Constitution, which says:

' No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office.' "

May 18.

Veto of Senate bill entitled "An act to encourage and to promote the professional training of teachers."

"I sympathize with all proper methods to raise the standard of qualification for teachers employed in the common schools, but the tendency of such legislation is, I fear, to impose too arbitrary restrictions and to attach too much importance to normal school or training class diplomas.

This bill has one object, but two principal features. Its first provision is to give authority to boards of education in cities (except New York) and villages employing a superintendent of schools to establish schools or classes for the professional instruction and training of teachers. Towards the maintenance of such schools or classes the State is to contribute from its free school fund to the extent of not more than one hundred thousand dollars a year.

The State has for years been pursuing a different policy of educating teachers — namely, through the agency of its normal schools. There are now eleven of these institutions, all representing a liberal expenditure of public money and all possessing excellent educational facilities. While it must be confessed that these institutions have departed somewhat from the main purpose of their establishment and do not at the present time furnish as many teachers as they should for the primary and grammar schools, they represent quite as large an expenditure as the State has found it feasible heretofore to allot for this purpose — so great an expenditure indeed that every suggestion for an increase in the number of normal schools encounters strenuous objection in all parts of the State. Under these circumstances I question the propriety of establishing a different set of training schools to be supported in large part at the State expense. If the choice were presented as an original question whether the present system of educating teachers through the medium of the normal schools should be established, or the system provided by this bill, I am frank to admit that the system here proposed would have some advantages over the normal schools, for from training classes established in connection with our municipal schools probably a large percentage of graduates would become teachers, and the difficulty which is now experienced of securing good instruction in the primary and grammar schools would be diminished. But this difficulty can also be diminished by making our normal schools more practical and by encouraging more particularly the training of teachers in the simpler branches of learning, such as are taught in the district and rudimentary village and city schools.

The other feature of the bill is that which would exclude from teaching in the primary and grammar schools of cities after January 1, 1896, any person who (1) has not had successful experience in teaching for at least three years; or (2) has not completed a three years' course in, and has been graduated from, a high school or academy, or from an institution of learning of equal or higher rank, approved by the Superintendent of Public Instruction; or (3) has not, in addition to such graduation, been graduated from a school or class for the professional training of teachers having a course of study of not less than thirty-eight weeks, approved by the Superintendent of Public Instruction.

This restriction would exclude from employment as teachers in our public schools all persons, no matter how highly educated — even college and university graduates — who had not had special training in pedagogy in the manner permitted by this bill. This would be very radical legislation, and I seriously doubt its feasibility or propriety. It would exclude many capable persons from gaining a livelihood by teaching. It would be an unnecessary interference with the powers of local school authorities and with the rights of individuals, and its benefits would not compensate for this questionable State interference.

Educational legislation is apt to aim too much towards uniformity in instruction and learning. If freedom and individuality are worth encouraging in anything, it is in the acquirement and imparting of knowledge, and we should beware lest, in our efforts to encourage general education, we do not discourage intellectual accomplishment." *

May 18.

Veto of Senate bill entitled "An act to provide for the payment of the expenses of the senate committee appointed to investigate the police department of the city of New York, acting by order of a resolution of the senate known as senate document number 27, adopted January thirtieth, eighteen hundred and ninety-four, and resolutions supplementary thereto."

"If I thought the purpose behind this bill was an honest one, or that the interests of the State or of New York city would be benefited by the proposed investigation, I would give the measure my approval. But the bill has every appearance of being a misuse of public money and of legislative power for the manufacture of political capital or the division of political patronage.

These are plain words with which to characterize an act of the legislature. They will not be relished by those to whom they apply. They will be criticized by those whose personal or political purposes they frustrate. But I think the people understand plain language best, and when plain facts are handled they require plain treatment. The people are not easily deceived by polite phrases or by language which conceals rather than expresses thought. They like frankness best.

Periodically, when the party which is in a minority in New York city obtains control of the State Legislature, it makes that city the target of political attack by legislative committees. Except for political objects, there is no good reason why that city should be singled out for legislative scrutiny. The same men who do the investigating in public will admit in private what every well-informed person knows is true — that no city in the State is so well governed as New York. No city in the State has a lower tax rate; no city has better police regulation; no city has a lower ratio of crime; no city has better streets; no city has a better fire department; no city has better parks; no city has better schools; no city has a better health department; no city has a better credit; no city is so comfortable a place to live in. That bad men sometimes get in office there is true; that frauds upon the city treasury sometimes occur is true; that maladministration sometimes happens is true; that ideal municipal government has not yet been attained there is true; but these things are equally true of every city in the world. They are truer of other cities of our State than they are of New York. They are unavoidable in government as in private business. They are less frequent always where official responsibility is fixed and party accountability is certain. They are faults of administration rather than of legislation, and, except in rare cases, can be cured by other means than legislation. They are evils with which the people of the locality are primarily concerned, and the people of the State only secondarily and remotely. Municipal pride and local self-government both demand that the attempt to remedy them should first be applied by the people of the vicinage, and that resort should be had to legislative interference only when the people are unable to help themselves. This municipal independence is cherished fondly by every city in the State. It is a matter of particularly jealous regard to the people of New York, for sad experience has demonstrated to them that the most corrupt periods of their city government were those in which, for division of political plunder and patronage, the Legislature at Albany and municipal officials combined to set at naught the will of the people, and by corrupt legislation turn the city over to political vultures. That result is the inevitable outcome of such dual government.

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* A bill to promote the instruction of teachers, embodying substantially the plan of the bill here vetoed, was passed in 1895, and became chapter 1031 on the 15th of June. See *post*, p. 564.

Investigations of the kind proposed by this bill do not, of course, betray their real purpose on their face. They are urged in the name of reform and enlist in their support the services of many people of honest intentions who are deceived by the public professions of the investigators. But their real character is a matter of common knowledge and political record. If they were sincere attempts to improve municipal governments they would not be confined solely to Democratic cities; they would not almost invariably be concentrated upon one great Democratic city. Nobody believes that municipal lessons can not be learned at Syracuse and Rochester as well as at New York and Troy. Ask the citizens of Republican cities whether they suffer any municipal evils, and you will not get a negative answer; but ask them how they cure these evils and they will not direct you to legislative investigating committees, for these they never see in their cities. Such instruments of reform are only used for Democratic strongholds.

But whether such efforts are directed against particular cities, or whether they are applied impartially, they are unjustifiable interferences with local affairs, except as furnishing information as a basis for general legislation. This they seldom do. Their results, if they have any in legislation, are, as a rule, merely supplementary efforts for a division or usurpation of municipal patronage when political threats have failed. The last experience which the city of New York had with such an investigating committee was in 1890, when the so-called Fassett committee, professing to be inspired with the same zeal for reform which now animates the Senate committee of 1894, ransacked many of the municipal departments and, as a result, left five printed volumes of testimony among the State archives and one law, which the present Legislature has made haste substantially to repeal. Yet it was in 1890, and is now a matter of public notoriety, that this famous legislative committee, stirred with enthusiasm for municipal reform, was ready at any time to discontinue its investigation if the mayor of New York would consent to appoint a Republican politician from Columbia county to the office of police commissioner.

It is such experiences as these which justify public suspicion of the sincerity of motive behind legislative investigations. The history of the past would of itself warrant such a suspicion. But in this case there is the additional ground of suspicion which is furnished by the actions of the legislative committee itself. At no time during the three months and more that it has been authorized to sit, has the committee seemed to possess the confidence even of those who desired it to investigate municipal affairs in New York. At one time it was openly charged in the public press that the committee had already consummated a political deal with the local authorities whereby in return for certain municipal offices for political friends the committee would cease its investigations into local affairs. At other times other serious charges were made. In almost all cases these imputations against the good faith of the committee came not from its political enemies, but from those who were in political sympathy or alliance with it, or from that earnest body of citizens who honestly desired a thorough investigation and who welcomed honest legislative assistance in their own efforts to secure good government. A committee whose earnestness and honesty of purpose are assailed by its own friends is hardly to be depended upon to conduct an impartial investigation. The assumption is fair that this effort at legislative investigation is inspired by no higher motives and will be attended by no less partisan conduct than was that of the Fassett committee of 1890.

Under these circumstances it will hardly be claimed by fair-minded persons that the money of the taxpayers of the State should be used to pay the campaign expenses of a political party. That in substance is all this bill does in its appropriation of twenty-five thousand dollars for counsel, expenses of senators at hotels, etc., although incidentally it would provide summer vacations for rural senators. In view of the experience of the past twenty-five thousand dollars would not be nearly enough to satisfy the luxurious desires of a junketing committee, or the avaricious appetites of counsel, or to accomplish the bribery of witnesses. The actual expense to the State would undoubtedly be much greater, and this consideration makes the objectionable character of the bill the more deserving of criticism. It must be remembered that the recent Legislature appointed no less than twenty-three different investigating committees, with power to employ counsel, take testimony and subpœna witnesses, and the expense of these is yet to be borne by State taxation, for the Legislature apparently was unwilling to call public attention to the meagre results of these investigations by making appropriations at this session for the expenses thus incurred. When the prodigal waste of public money by these committees is brought to the attention of the taxpayers, the official recklessness which caused it will be generally condemned. That burden yet to be borne should not be added to by the appropriation provided by this bill.

I cannot forbear calling attention, also, to the inconsistency of the Legislature in the employment of expensive counsel for these committees. The Legislature imperilled the annual appropriation bill for the support of the government by insisting upon a 'rider,' to the effect that the attorney-general should designate all counsel employed by the various State bureaus and commissions. If that principle was a good one to apply to these offices, it would seem to be a good one to apply to the twenty three investigating committees, and especially to this New York investigating committee.

If there are people in New York who think their local government is not a good one, it is their privilege and their duty to make it good. The remedy should be the same as in other cities of the State — by the election of good officers. The majority rules in this country, and if the majority wants good government, it can always secure it through the fearless exercise of suffrage. But all change is not reform and all investigation is not correction. Reform by legislative investigation can only come when legislative investigation is honest, thorough and impartial. But under any circumstances, it is the unnatural, illogical remedy. The natural remedy is close at hand — watchful and loyal citizenship. That is the manly, straightforward, wholesome remedy. The employment of that remedy makes a municipality self-reliant, proud and strong. It vindicates our theory of self-government and builds our State and our Republic upon a sure foundation."

May 19.

Veto of Assembly bill entitled "An act to amend title twelve of chapter seventy-seven of the laws of eighteen hundred and seventy, entitled 'An act to amend the act to combine into one act the several acts relating to the city of Albany, passed April twelfth, eighteen hundred and forty-two, and the several acts amendatory thereof, and also to repeal the Act to establish a capital police district and to provide for the government thereof, passed April twenty-second, eighteen hundred and sixty-five, and the several acts amendatory thereof in so far as they relate to the city of Albany;'"

Senate bill entitled "An act to establish and maintain a police force in the city of Troy;"

Senate bill entitled "An act in relation to the police force in Richmond county," and

Senate bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' with reference to the appointment of police commissioners in said city."

" These bills embody attempts by the Legislature to reorganize the police departments of four municipalities. They all legislate out of office present commissioners of police appointed for a definite term. They are all directed against municipalities in which the political control is usually held by the party opposed to that represented by the majority in the present Legislature. They are all intended to give political advantage to the party whose representatives passed them. They are framed upon no general or consistent principle of legislation or of municipal administration. One reposes the management of the police department in the mayor and a chief of police, to be appointed by the mayor. Another virtually takes away from the mayor the power to appoint commissioners and confers it upon a minority and a majority, respectively, of the common council. A third takes the power of appointment away from the board of supervisors and county judge, where it has been for over twenty years, and makes the office elective. The fourth retains the power of appointment of commissioners in the mayor, but strips his appointees of practically all executive authority and confers it upon one of their subordinates, in whose appointment they will have no voice until the present incumbent dies, resigns or is removed upon charges.

Two of the bills provide for partisan police commissioners — two for bi-partisan commissioners. Not one of them was introduced in the Legislature by a resident of the locality affected — only one of them by a legislative representative of the locality. The bill affecting Albany was introduced by the assemblyman from Oswego county, the Republican leader in the Assembly; that affecting Troy, by the senator from Wayne county, the Republican leader in the Senate; that affecting Richmond county, by a resident of Brooklyn, and that affecting New York by a senator from Rockland county. Each of the bills was made a party measure in the Legislature and each was passed as a result of party caucusing. The people of each of these localities sent representatives to the Legislature to present to the consideration of that body such legislation as a majority of the people of the locality desired and to oppose such legislation as a majority of the people opposed. Yet the Albany bill was opposed by all the five representatives from that county; the Troy bill by three out of the four representatives from that county, and the New York bill by thirty-five out of the thirty-eight representatives from that county. These measures, therefore, are in this respect plain violations of the principle of home rule. The supposition is that they are not wanted by a majority of the people in Albany, in Troy, in Richmond county, or in New York. If they are, there is no fair proof of the fact at present. It could be demonstrated beyond dispute by the election to the Legislature of representatives favoring such legislation — although even this demonstration, entitled as it would be to great respect, would not, of course, necessarily be conclusive as to the desirability of the legislation.

These general observations apply to all four bills. They are essentially political in their nature. They are bad in principle, because they represent the misuse of legislative power to promote partisan purposes. They are bad in principle, because they legislate out of office men against whose official acts or conduct no charges have been preferred in the manner recognized by law. The men sought to be removed from office may be incapable and deserving of removal, but in most cases the law prescribes a method for their removal, and if they are incompetent good citizens should not hesitate to use that method of depriving them of power. If the law appertaining to removals is not broad enough or effective enough, it should be amended; but it is contrary to all sound principles of government that the Legislature should take this matter of removal into its own hands and legislate one set of local officials out and another set in, according to the political whim.

Each of these bills has special features which demand consideration separately.

THE ALBANY BILL.

The city of Albany has now a board of four police commissioners appointed by the mayor for four years. The proposed bill substitutes the mayor for the board of commissioners and places the management of the police department in his hands and those of the chief of police, who is appointed by him, and may be removed at any time. Every member of the present police force, from chief to patrolman, seems to be legislated out of office and the mayor is authorized to appoint his successor. All appointments to the force and removals at any time are to be made by the mayor. Such autocratic power over the police is given to the mayor of no city of equal size in the State. It is not only a dangerous power, but an onerous duty which any mayor might well shrink from. If the bill had authorized the appointment of a single commissioner who should have sole charge of the department, it would have presented a more feasible scheme, although still objectionable in some of its aspects.

THE TROY BILL.

The Troy bill presents a unique scheme of appointment, which, so far as I have been able to learn, has no precedent in any city of the State. Nominally, the mayor is authorized to appoint four commissioners of police. Practically, his power of appointment is merely ministerial. The real appointing power is the common council — not collectively, but individually. The majority in the common council selects two commissioners and the minority selects two, and the four names thus selected are to be sent to the mayor, who has no discretion, but must appoint them. So unnatural and intricate a scheme is interesting as a curious specimen of legislation. Last year, at the solicitation of all but one, at least, of the representatives from Erie county, the Legislature passed a law transferring the power of appointing police commissioners in Buffalo from the mayor to another elective officer, namely, the comptroller, whereupon the Legislature was roundly denounced in certain quarters for having 'robbed Buffalo of self-government,' and the present Legislature, at the request of all but one of the representatives from Erie county, repealed that law because the people of Buffalo did not want it and gave the power back to the mayor. In each case the legislation was desired by the representatives from the locality. But this Troy bill was passed against the protest of three out of the four representatives of Rensselaer county, and not only robs the mayor of the appointment of police commissioners, but legislates out of office the entire Troy police force — commissioners, chief, captains, sergeants, detectives and patrolmen. If the Buffalo legislation was 'a theft of self-government,' what, indeed, shall we call this proposed bill for Troy?

By well-intentioned people of Troy I have been asked to approve this bill, because the present police force is alleged to be incompetent and corrupt, and sweeping charges of this kind are laid before me. Their statements may be correct, but in the law under which the police department of Troy is now organized and controlled, the police commissioners may remove any of their subordinates for cause and the police commissioners themselves may be removed from office by any Supreme Court justice in the State for misconduct or neglect of duty upon charges presented against them. This provision is a wise safeguard against maladministration. It is intended for just such cases as the persons to whom I have alluded allege now to exist. If they are sincere in their purpose and the charges which they make in public are true, their first duty is to go before a justice of the Supreme Court with their charges and not to a political majority in the Legislature. When they ignore this simple and natural remedy for their troubles and enlist the assistance of partisan legislation, they subject their motives and their sincerity to just criticism. If the intent of the legislation is merely to procure a bi-partisan police board, that object could have been easily accomplished without legislating anybody out of office or without establishing a new-fangled and unusual scheme of appointment.

THE RICHMOND COUNTY BILL.

The Richmond county bill changes the method of appointing police commissioners which has been the law for twenty-four years. In this bill the principle of a single elective commissioner is introduced. Heretofore, the three commissioners have been appointed by the board of supervisors and county judge. This system seems to have given general satisfaction hitherto. It was weakened by an act of last year, which allowed vacancies to be filled for a full term, instead of for the unexpired term of the commissioners who vacated the office. This privilege might be used to perpetuate a particular board of commissioners in office indefinitely. That is neither right nor democratic. If the bill had remedied that bad feature and strengthened the present law in some other particulars, I would have given it my approval. But it goes further and introduces the system of an elective commissioner. Police commissioners are elected in three or four of the smaller cities of the State; but, as a general principle, it has been regarded as wise to have them appointed where population is considerable and their opportunities for influencing elections are greater. The bill is defective in other particulars. It also would legislate out of office the present commissioners, and one section of the bill would seem to provide that their successor might remove all the present force of policemen.

THE NEW YORK BILL.

The New York bill has been so much associated in its various stages toward passage with rumors of political deals that all discussion of its merits seems to have become involved in its political aspects. At one time the measure was denounced as a bargain for a division of patronage between politicians of both parties. Then there were rumors of bribery in a legislative caucus and subsequently the bill was said to be changed to meet the purposes of another set of politicians. Thus the measure comes to me saturated with political rumors, without a single feature to recommend it in the interests of better government, illogical and peculiar in its provisions, and surely bearing on its face the familiar signs of political hunger. While professedly recognizing the principle of bi-partisan police boards in New York city — a principle, in behalf of which I am frank to confess, there are many reasons to urge as regards New York — it makes this board a mere figurehead and practically nullifies its power by conferring all executive authority upon a superintendent of police now in office. If a single executive officer were considered desirable and all power were to be conferred upon him, there would be no use for bi-partisan commissioners. If four commissioners are established, they should be the responsible heads of the department with full authority. Were this bill to become a law, the superintendent of police would make rules for his own guidance and the guidance of his subordinates; interpret these rules for himself and punish others for their infractions. By absolutely controlling assignments and by granting furloughs, he would, at will, distribute billets of ease or of hardship. He might thus, indirectly, discipline every one below him by the worst form of discipline, that which makes performance of duty hateful and gives color to charges of caprice. Moreover, all but four and forty of the three and a half thousand members of the uniformed force would be subject to his direct discipline for so-called, but neither defined nor designated, 'minor offenses.' That discipline is to be exclusive. It is to bar all other, much as if a fine, as for a battery, by a justice of the peace should prevent all other tribunals from taking cognizance of the same facts, although amounting to felonious assault.

For more than a generation it has been the law that in New York, the chief city of the country, no policeman should be punished save after a formal examination into the accusation against him. Over forty years ago this examination was recognized as a *trial,* and it was enacted that the mode of this trial should 'be particularly defined and prescribed by rules and regulations,' and so was established the procedure which, without substantial change, has obtained until the present day. That procedure imports a trial before an impartial board, neither prejudiced by supposed evasion of personal supervision nor disappointed by failure to execute a personal command.

In the proposed statute, the sections of the consolidation act containing these time-honored safeguards are swept away from accusations by the superintendent, whose 'proceeding shall be summary and in accordance with general regulations to be prescribed by' himself.

All advancement, even the first assignment as a roundsman, is to rest with the superintendent, unless he be overruled by a unanimous vote. This, in connection with the powers and practices of the civil service board, would create a mandarin-like system and exempt to the last degree the whole uniformed force from the popular will and public sentiment, as expressed by municipal elections.

If it be urged that the novel functions are to be created for, and the extraordinary powers are to be devolved upon the present incumbent as peculiarly fitted for them, that would be but excusing the making of a new office for a particular person, in evasion of the spirit of the constitution, which wisely requires that local officers shall be appointed only by local authority.* I am opposed to any such subterfuge. However capable may be the present chief executive of the New York municipal police, it does not follow that his successor and successors, who are in turn to undertake these new charges, will have the like genius or aptitude or even experience. Nor is it to be forgotten that a former experiment with special legislation for the benefit of the same individual, chapter 137 of the Laws of 1888, creating and devolving upon him the office of chief inspector, had needs be repealed when it first came into practice after his promotion.

Although it is provided in the bill, in terms, that the head of the police department 'shall be called the board of police,' the new scheme would leave the department almost without a responsible command, in that it would remove accountability at least another and a long step from the people by removing it from the administrative to the executive branch of the department. It would make responsibility to the public so indirect and vicarious that the commissioners might well shelter themselves from blame for maladministration under the pretext that the Legislature, having made over to the superintendent the substantial powers of the department, the board could be expected to intervene only upon such grave dereliction as would call for criminal indictment and criminal prosecution.

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* Const. 1846, art. 10, § 2.

Under the present law, the board is composed of commissioners appointed at such intervals that nearly every mayor appoints one, and each new administration is thus secured a representation upon the board according to the continuance or the change of the popular will, as expressed in the municipal elections. If a bi-partisan commission is thought desirable it can be obtained under the present law without the necessity of additional legislation.

If the commissioners, or a majority, or even one of them, fail to meet the high responsibility now belonging to the office, the law affords ample and speedy remedy by complaint to the mayor, the elected head of the city government. No other remedy is provided by this act. If this remedy has been availed of little in the past, it is only less likely to be resorted to when weakened for a responsibility more circuitous.

Thus aside from the criticism which may be justly heaped upon the bill as a partisan measure, it is, in my judgment, an ill-considered measure in its probable effect upon the police administration of New York, and an unwise experiment to introduce in the police department of so large a city."

May 19.

Memorandum filed with Senate bill, chap. 741, to regulate the pay of police patrolmen in certain cities. Approved.

"Although not approving generally of the policy of increasing the compensation of public officers in such times of financial depression as these, I have affixed my signature to this bill because of my conviction that public interest requires that the policemen of New York should be sufficiently compensated so that they may be removed from the danger of temptation to use their offices for private gain.

The salary of patrolmen was fixed at $1,200 in 1866 and has remained unchanged ever since. In the meantime, however, rents have advanced and the cost of living has increased. Deducting from this salary the amount a patrolman has to expend under the rules of the department for uniforms and other regulation clothing, there is left only between nine hundred and ten hundred dollars a year as net compensation for his constant work and risk of life and limb. This is less, proportionately, than is paid to the police of other large cities. To increase this salary two hundred dollars as is proposed by this bill, is merely according to the policemen a compensation commensurate to their long hours of service, their risk of life and personal injury, and their disbursements required by the rules of the department. The increase is the more justified by reason of the fact that the captains and sergeants have had their salaries raised, so that the proportionate difference between their compensation and that of the patrolmen is greater than it originally was.

From the standpoint of public morality, it is essential, also, that the guardians of the peace should be amply compensated, so that they may be removed from temptation. If, as has been charged, there has been any disposition in the past on the part of the policemen to use their office for private gain, the increased compensation provided by this bill ought to remove any such temptation. At any rate, the people should not encourage misuse of power by withholding a just reward for services rendered. The police are the people's servants and they should never be permitted to become masters by abuse of official trust.

Objection has been raised to this bill upon the ground of its being mandatory in form and, therefore, contrary to the principle of home rule. This objection should be directed rather against the original act of 1884, which was approved by Governor Cleveland. That act was mandatory in form and absolutely fixed the police salaries. This bill is merely an amendment of that act as to the amounts of the salaries, and therefore must retain the mandatory form of the act itself. Unfortunately for the principle of home rule, which wisely demands that local salaries should be fixed by local authorities, the amounts of the salaries in this case cannot be either increased or reduced except by an amendment of this mandatory act."

May 21.

Memorandum filed with Assembly bill, chap. 743, to regulate rates of fare on elevated railroads in the city of New York. Approved.

"Two constitutional objections have been urged against this bill — first, that a legislative reduction of railroad rates amounts to a taking of the property of the railroad corporation, which the Federal and State Constitutions prohibit except on making compensation, and by due process of law, involving notice, an opportunity to be heard and judicial investigation;[o] second, that the rates of fare heretofore allowed by law constitute a contract between the State and the corporation, and that a legislative change of rate without the consent of the corporation is impairing the obligation of the contract.[p]

As to the first objection, it is undoubtedly sound law that if an act of the Legislature reduces the rates of fare so low as to afford no compensation to the company for its services and to practically compel it to carry its passengers without compensation, such act would be in contravention of the Federal Constitution. Possibly if the rates should be fixed unreasonably low the same objection might apply.

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[o] Const. 1846, Art. 1, § 6; U. S. Const. 5th. Am.

[p] U. S. Const. Art 1, § 10, clause 1.

As said by BREWER, J., in *Chicago, etc., R. R. Co. v. Day* (35 Fed. Rep., at p. 879): 'The rulings of the Supreme Court imply that the Legislature may reduce railroad rates until only a minimum of compensation is secured to the owner. The rule to be laid down is this: That where the proposed rates will give some compensation, however small, to the owners of the railroad property, the courts have no power to interfere. But where the rates prescribed will not pay some compensation to the owners, then it is the duty of the court to interfere and protect the companies from such rates.'

As to the second objection, rates of fare fixed by charter or other legislation are probably not a part of the charter contract, but are subject to future legislation, and subsequent changes of rates are not changes in the contract even when the legislative right to alter or repeal charters has not been reserved. (See *Chicago, etc., R. R. Co. v. Minn.*, 134 U. S., at p. 455.)

But even if provisions regulating rates are deemed contractual rather than merely legislative provisions, still by article VIII, section 1 of our State Constitution the legislative right to alter, amend or repeal corporate charters has been reserved and all charters are taken subject to such reserved right.

This bill may, therefore, be considered purely upon grounds of public policy, freed from all Constitutional or other legal difficulties.

The reports of the Manhattan Railroad Company show that it is earning and paying an annual dividend of six per cent. upon its stock and accumulating a large surplus. Even if travel should not be increased by the requirement of a single five cent fare, it is clear that it would continue to earn and be able to pay the same rate of dividends and still accumulate a surplus. But in all reasonable probability the reduction of fare required by this bill will so largely increase the travel upon the road as to increase rather than to diminish the net earnings of the company. I do not believe the interests of the company will be injured in the slightest degree by this bill becoming a law, while the interests of the public will be greatly promoted."

May 21.

Veto of Assembly bill entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to police justices and police courts."

"The present charter of Brooklyn gives to the Mayor, Comptroller and Auditor, all of whom are elective officers, the power jointly to appoint police justices. This bill takes away from the Comptroller and Auditor this power and confers it exclusively upon the Mayor.

The present charter provision is a re-enactment of a part of chapter 256 of the Laws of 1880. In that same year, the Legislature by a later statute (chapter 377) conferred upon the Mayor alone the power to appoint the heads of departments, but not police justices. This shows that the Legislature for good and sufficient reasons did not see fit to confer upon the Mayor alone the power now sought to be conferred upon him by the bill before me.

The scheme which gives the appointment of these justices to the three chief officers elected by the people is more in conformity with the principle of an elective judiciary than that which would commit it to but one officer.

If the bill be urged for the reason that the present Mayor is a Republican, while the present Comptroller and Auditor are Democrats, it is objectionable as partisan legislation.

If it be urged on the ground that the present Mayor is more likely to make good appointments than the present Comptroller and Auditor acting with him, then it presents the case of amending the charter of a city just to fit a single occasion, and a similar argument might be made, from time to time, for changing the law in some other way, according to the character of the men who might be called upon to make the appointment.

This is wrong in principle. It seeks to have the Legislature change the law because the officers elected by the people to make these appointments are not to be trusted. The remedy is not in changing the law, but in keeping the people to their responsibility of choosing good officers. If these officers do not discharge their duty by making good appointments then let the people change them or fail to reelect them. If any of the present justices be unfit, or violate his duties, he can be removed by the General Term of the Supreme Court under the Code of Criminal Procedure, section 132.

As a matter of fact, neither the present Comptroller nor the present Auditor will make any more appointments of justices. There is to be elected next fall a new Comptroller and a new Auditor, who will unite with the present Mayor in 1895 in appointing two justices in the place of Messrs. Haggerty and Watson, whose terms of office will expire next year.

As to the other four justices, appointments are to be made in their places in July, 1896, and will go into effect in 1897. So that the appointments will be made by a new Mayor, and a new Comptroller and a new Auditor.

Thus of all the appointments to be made to succeed present incumbents, two are to be made by the present Mayor and a new Comptroller and new Auditor, and four by a new Mayor, new Comptroller and new Auditor. The people have the free opportunity, therefore, to declare themselves by choosing next fall and thereafter capable and trustworthy men for Comptroller and Auditor, who can be depended upon to appoint suitable police justices."

May 22.

Veto of Assembly bill entitled "An act to amend the public health law relating to penalties and their collection."

"This bill is defectively drafted. It amends the Public Health Law by adding to the civil penalties now imposed certain criminal penalties for practicing medicine without legal authority. The Public Health Law was constructed upon the principle of excluding from its provisions all but civil penalties, and transferring all criminal penalties to the Penal Code, where they properly belong. It was with this idea that the Statutory Revision Commissioners, in revising the health laws, omitted from the Public Health Law enacted last year the penal provisions which this bill contains, with the intention of inserting them in the Penal Code. As it happened, the Legislature passed no bill making that transfer, and, accordingly, the same provisions are now sought to be re-enacted. The mistake has been made, however, of not attaching them to the Penal Code. To enact the bill in its present shape would be to destroy, partially, the wise principle upon which the Public Health Law was framed and to establish a bad precedent for future legislation."

May 22.

Memorandum filed with Assembly bill, chap. 752, the Chamber of Commerce rapid transit bill. [a]

"This is popularly known as the 'Chamber of Commerce Rapid Transit Bill.' It amends seven sections of the Rapid Transit Act of 1891, leaving the remaining thirty-one sections untouched, and inserts thirty-five new sections.

The original act of 1891 authorized construction and ownership of the rapid transit system by a private corporation. The new sections added by this bill give to the city of New York the option of municipal construction and ownership. Such option is to be determined by the electors of the city at a general election. If the result of the election be in favor of municipal ownership, the original act of 1891 becomes permanently inoperative. If the result of the election be against municipal ownership, then the new sections added by this bill become permanently inoperative, and the efficiency of the original act of 1891 is restored, with only two changes of importance — first, the establishment of a new board of rapid transit commissioners and, second, the limitation to five cents for a single fare.

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[a] Sustained in Sun Pub. Ass'n v. New York (1897), 152 N. Y. 257.

Before the people can vote upon the option of municipal ownership, the new board of rapid transit commissioners must,

1. Determine whether it is for the interests of the public and the city that a rapid transit railway or railways should be established.

2. Determine the route or routes thereof and the general plan of construction, with sufficient detail to show the general mode of operation, and the extent to which any street or public place is to be encroached upon and the extent to which the property abutting thereon will be affected.

3. Obtain the approval by the common council of such route and plan.

4. Obtain the consents of the owners of one-half in value of the property abutting on that portion of each street to be used; or if such consents cannot be obtained, obtain the determination, in lieu thereof, of three commissioners appointed by the General Term of the Supreme Court, after due notice and hearing to all parties interested, that such railway ought to be constructed, and obtain an order of the General Term of the Supreme Court confirming the report of such commissioners on due notice and hearing.

5. Prepare detailed plans and specifications for the construction of such rapid transit railway, including suitable

supports, turn-outs, switches, sidings, connections, landing places, buildings, platforms, stairways, elevators, telegraph and signal devices, and such other appliances, devices and appurtenances as may be necessary or proper.

Having complied with all these preliminaries, it will be the next duty of the rapid transit commissioners ' to cause the question whether such railway or railways shall be constructed by the city, and at the public expense, to be submitted to the vote of the qualified voters of the city,' at the next general election. Whether this means the next general election after the passage of this act, or the next general election after the commissioners have completed their compliance with the preliminary conditions, does not clearly appear. It would seem, if such preliminaries are not completed by October seventh next, that the vote on this proposition will be necessarily postponed until the general election in the fall of 1895.

The rapid transit commissioners, under the act of 1891, have already adopted a route, plan and specifications and obtained the requisite consents thereto. If the new board of rapid transit commissioners shall adopt the route, plan and specifications of the old board, there will be no difficulty in complying with the conditions preliminary to holding the election this fall. But if the new rapid transit commissioners shall modify such route, plans and specifications or adopt wholly different ones, then they must obtain approval thereof by the Common Council before an election can be held.

After the election, the route, plan and specifications may be changed as hereinafter set forth.

If the election be held and shall result in favor of municipal ownership, ' then and in that event, it shall be the duty of said board to consider the routes, plans and specifications, if any, previously laid out and adopted by them or their predecessors, and for which the consents have been obtained, referred to in section five of this act; and either to proceed with the construction of such railway or railways, and provide for the operation of the same, as hereinafter provided, or to change and modify the said routes, plans or specifications in such particulars as to said board may seem to be desirable, or to adopt other or different routes, plans and specifications for such railway or railways.'

When the routes, plans and specifications shall be thus finally decided upon, the rapid transit commissioners may, after due notice and competitive bids, enter into a contract with a corporation which will agree to construct such rapid transit railway, and at its own expense equip, maintain and operate such railway for not less than thirty-five nor more than fifty years, charging such fares ' as such board shall deem best suited to the public interests,' to be specified in the contract, and paying as rental to the city a sum to be specified in the contract, which shall be, at least, equal to the annual interest on the bonds issued by the city to pay for the construction of the railway, plus one per cent. per annum on the whole amount of such bonds.

The contract may also provide that, on the expiration of such lease, the city may purchase at an appraised valuation the rolling stock and other equipment placed on such railway by the constructing and operating corporation.

' Said contract may also provide for a renewal or renewals of the lease of said road upon the expiration of the original term and of any renewals of the same upon such terms and conditions as to the said board may seem just and proper.'

It would seem wiser to have placed some limitation upon the power of the new rapid transit commissioners to contract for such unlimited renewals of the lease. The bill makes it possible for the rapid transit commissioners to give to the constructing and operating corporation a perpetual lease of the entire rapid transit system upon a rental which might possibly be only four and a-half per cent. of the cost of the construction, such corporation being obliged to invest of its own capital only money enough to equip and operate the road. While it is not probable, and is practically impossible, that the commissioners should perpetrate such an outrage yet it is not wise to confer such unlimited powers upon any officials. Probably there will be very lively competition for the contract of construction and operation on such easy and favorable terms, and it is probable that the city will not have to pay to such corporation even the actual cost of construction, and that the annual rental to be paid to the city will be far in excess of the four and a-half per cent. fixed as the minimum.

On the execution of such contract the corporation, as security for the performance thereof on its part, is to give bonds, to be approved by the commissioners, and to deposit one million dollars with the city comptroller. To pay such corporation for the construction of such railway and damages for property taken, the city is to issue bonds, not to exceed fifty million dollars, bearing a rate of interest not exceeding three and a-half per cent. and payable, principal and interest, in gold coin.

The city is authorized to condemn all rights, privileges, franchises and easements necessary to be acquired or extinguished for the purpose of constructing and operating such road, taking possession thereof and acquiring title thereto at any time, and paying therefor afterwards the value to be fixed in condemnation proceedings, with interest on such valuation from time of taking. It is well-settled law that this general provision does not authorize the taking of the property of a private corporation already devoted to a public use.* To do so, express legislative authority is necessary.

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* As to the second taking of property under the right of eminent domain see Re Rochester Water Comrs. (1876), 66 N. Y. 413; Prospect Park & C. I. R. Co. v. Williamson (1883), 91 N. Y. 552.

It will be noticed that the municipal construction and ownership proposed by this bill is not absolute. While the cost of construction is to be paid by the city, and the title to the structure is to be in the city, yet, for the first thirty-five years at least, the city can only receive in return the rental agreed to be paid by the constructing and operating corporation.

If the city should vote against municipal construction and ownership, then the new rapid transit commissioners will stand after the election substantially where the old rapid transit commissioners stood before this bill became a law.

I have made this brief analysis of the law as it will stand after this amendment in order to indicate that there is serious doubt whether this bill will not further postpone rather than hasten the boon of rapid transit for New York city.

Only those who are not acquainted with the provisions of this bill can find it easy to decide whether it ought to become a law.

In addition to the practical difficulties presented, it has been necessary to consider serious constitutional and other legal objections which have been urged against the bill, the principal of which are the following:

1. As the bill can apply to New York city only, it is urged that it is a special or local bill and, therefore, in violation of article III, section 18 of the State Constitution, that ' the Legislature shall not pass a private or local bill granting to any corporation, association or individual the right to lay down railroad tracks.' Section 1 of the bill amending section 1 of the act of 1891, and following the language of the original section, makes the law applicable only to a city having a population of over 1,000,000 inhabitants, according to the last preceding national or State census.

The bill further abounds in local allusions, which clearly show the intention of the Legislature to make it applicable to New York city only.

But the General Term of the Supreme Court in the First Department, in *The Matter of the East River Bridge Co.* (75 Hun, 119), decided in January last, passed upon the question of the constitutionality of the entire act of 1891 in this respect, including section 38, added thereto in 1892, which was still more amenable to this objection than section 1. The court held that the entire act is a general and not a local or special law, saying: 'It is not at all necessary to discuss any of the constitutional questions which have been raised upon this application, because, as we understand it, the court of last resort has practically swept away all the limitations which have been attempted to be placed upon private and local enterprises affecting private interests. In *The Matter of Church* (92 N. Y. 1), it has been held that a law relating to particular persons or things as a class was general, while one relating to particular persons or things of a class was deemed local or private, and that an act which, under no possible circumstances could apply to but a single county of the State, because it created a class consisting of one and did not refer by name to the individual composing this class of one, was not local but general, and, therefore, constitutional. Under this decision, all that it is necessary to do to evade the constitutional provision is to use general language, qualified, however, by particular descriptions which can make it applicable only to the particular thing in respect to which there is an intent to legislate.'

And again, the General Term of the Second Department, in *The Matter of Eichhorn* (74 Hun, 58), held that an act applicable only to a county adjoining a city of one million or more inhabitants, was a general law, saying: 'The limitation of the act to counties where there is an adjoining city of one million of inhabitants or over, does not make the act, otherwise general, a local act. It still applies to the whole State where any county in it adjoins so large a city. (*People ex rel. N. Y. Electric Lines Co.* v. *Squire,* 107 N. Y. 593). An act embracing all things of a certain class is a general and not a local act, although by reason of a limitation based on population only, a single locality can receive its benefits. (*Ferguson* v. *Ross,* 126 N. Y. 459; *Matter of N. Y. Elevated R. R. Co.,* 70 id. 328.)'

2. A second constitutional objection urged to this bill is that the naming of the rapid transit commissioners in the bill violates the provisions of article X, section 2 of the Constitution, that 'all city officers whose election or appointment is not provided for by this Constitution shall be elected by the voters of such cities, or by some division thereof, or be appointed by such authorities thereof as the Legislature shall designate for that purpose.' The spirit and intent of this clause of the Constitution is obvious. It was evidently the intention of the framers of this clause of the Constitution to secure to each city the selection of its own officers, leaving to the Legislature merely the option of determining whether the officers of the city should be elective or appointive. But the Court of Appeals, in interpreting and applying this clause of the Constitution, has declared it inapplicable to city offices created after the adoption of this constitutional provision.

It has been urged with much earnestness that the office of rapid transit commissioner created by this bill is, substantially, a continuation of the old office of highway commissioner under another name, and, that as such office existed before the adoption of the Constitution, the constitutional prohibition in question applies to the office of rapid transit commissioner. But the duties imposed by this bill upon the rapid transit commissioners are so radically different from the duties pertaining to the old office of highway commissioner that this argument is certainly not conclusive.

It is also urged that the rapid transit commissioners are not, technically, city officers. But assuming them to be city officers, it would seem that their office is created since the adoption of the Constitution in 1846, and that, therefore, the Legislature has the power to appoint such officers. Although I believe such action by the Legislature to be contrary to the spirit and intent of the Constitution, yet it seems to be within the letter of the Constitution, as this clause has been interpreted by the Court of Appeals.*

3. It is urged that the system of the construction of the rapid transit railway by a private corporation, to be paid therefor by the city with the proceeds of bonds issued by the city for that purpose, and the subsequent operation of the railway by the same corporation on payment of a rental therefor to the city, is in practical effect the loaning by the city of its money to the corporation for such purpose, and therefore violates article VIII, section 11 of the Constitution, 'that no city shall loan its money or credit to, or in aid of any individual, association or corporation.' Although the practical effect of this scheme may be very much the same as a loan of money at interest, yet the method of reaching this effect is not, in fact, that of a loan.

The road in such case is to be constructed for the city on contract, the contractors are to be paid therefor by the city, the road is to be owned by the city, and although the method adopted may be in the nature of an evasion of this clause of the Constitution, yet it seems to be clearly within the letter and general spirit of this constitutional provision.

4. It is urged that the submission of the option of municipal construction and ownership to the electors of the city is an attempted delegation of legislative power from the Legislature to the people; that the Legislature cannot thus successfully transfer the duties and powers, which it alone is authorized to exercise, to the people of the city or of any portion of the State. It is to be noticed that the bill is to become a law without submission to the

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* *See* People ex rel. Wood v. Draper (1857) 15 N. Y. 745; Allison v. Welde (1902) 172 N. Y. 421.

people of the city and may be efficient for accomplishing its object regardless of the result of the election. The bill only submits to the people of the city the option of two methods of accomplishing a city enterprise. This objection, therefore, does not seem to be well taken.

5. It is objected that the provision enabling a city, without ceremony, to take immediate possession of any property needed for the railway and transferring immediately the title thereof to the city, is in violation of the clause of the Constitution that private property shall not be taken for public use without just compensation.* It is urged that, while a city may take possession and postpone payment until the value be ascertained by condemnation proceedings, the Legislature cannot authorize the transfer of title until actual compensation has been made. Even if this point be well taken, it will render void only the clause of the bill that title shall be transferred immediately and postpone the taking effect of that clause until after compensation shall be made. This objection, therefore, does not seem to be insuperable.

6. It is also objected that the provision authorizing the General Term of the Supreme Court in a certain contingency to determine the amount of money to be appropriated by the city is unconstitutional, as imposing upon the court powers not properly belonging to the judiciary department of the government. But, even if this point be well taken, it would merely nullify this one clause of the bill and the remainder would be practical and efficient with this clause struck out, and would, therefore, be valid.

Other minor objections have been raised to the bill which it is not necessary to further discuss. It already sufficiently appears that the problem of rapid transit for New York city is not easy of practical solution. I consider this bill a sincere attempt to solve the problem. But other equally sincere attempts have preceded it and have failed. It may be that this measure will postpone the final solution of the problem until it also, in its turn, can be repealed and a new attempt made by further legislation; but, if such be the unfortunate result, the experience of one more attempt and failure will furnish guidance for a new act which shall avoid the possible blunders of this. But I do not think the bill can do serious harm, and the final responsibility for its efficiency for good or evil rests, where it ought to rest, with the people of the city of New York.

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* Const. 1846, art 1, § 6.

I sincerely hope that the new rapid transit commissioners created by this bill and the common council may promptly agree upon the route and plan of a rapid transit system for New York city, and that the rapid transit commissioners may be able to comply before October seventh next with all the conditions preliminary to the submission of the question of municipal ownership to the city at the coming fall election, so that the people may promptly determine whether they wish to adopt the new system proposed by this bill."

May 23.

Veto of Assembly bill entitled "An act creating a commissioner of jurors for counties of the State having a population of three hundred thousand or more and regulating and prescribing his duties; also providing in what manner jury lists shall be made up and jurors drawn and notified in courts of record in such counties; also prescribing the qualifications, exemptions and length of service of such jurors." [36]

"So far as relates to the general powers of the commissioners and to the mode of selection and procuring the attendance of jurors, this bill does not differ materially from those sections of the Code of Civil Procedure which regulate the same matters in the city and county of New York, and in some respects it may be an improvement upon the system which it is intended to supersede. But several of its provisions are, in my judgment, directly in conflict with the Constitution, and for that reason I have felt constrained to withhold my approval.

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[36] An act passed in 1895, chapter 369, provided for a commissioner of jurors in Erie County, and prescribed his powers and duties.

As to the power of the Legislature to vest in justices of the supreme court authority to appoint commissioners of jurors, see People v. Hall (1901), 169 N. Y. 184; Re Brenner, 170 N. Y. 185.

The bill creates in each of the specified counties the office of commissioner of jurors, to be appointed by a board, consisting of the justices of the Supreme Court residing in the county and the county judge, and in Erie county, the judges of the Superior Court of Buffalo, who are further empowered to remove the commissioner at any time and appoint his successor and also to fix the salary or compensation to be paid him by the county and to change the same at their pleasure.

I am of the opinion that the Legislature cannot confer this power or any share in it upon a justice of the Supreme Court. Section 10 of article VI of the Constitution is, in part, as follows: "The judges of the Court of Appeals and the justices of the Supreme Court shall not hold any other office or public trust." That one who holds the power to appoint a public officer, to remove him at will and appoint his successor, to fix his salary and to change it from time to time, holds a public trust will not be disputed, and I am unable to conceive of any valid answer to the objection that such a trust cannot be held by a justice of the Supreme Court consistently with the prohibition contained in the section above quoted. It is true that the Legislature may lawfully increase or extend the powers of the court or of its justices by the addition of further judicial duties and, as incidental thereto, may authorize them to appoint referees, receivers, auditors, criers, stenographers and such other subordinate court officers as may be necessary to the proper performance of those duties. But the commissioner provided for in this bill is not an officer of that kind; he is not a mere subordinate officer acting only under the direction or by the authority of the court, but is an entirely independent public officer, as much so as the sheriff or any other independent public officer having dealings with the court, and in appointing him the justices could not be regarded as acting in a judicial capacity or in the exercise of a judicial power any more than the mayor of New York can be regarded as so acting in appointing a commissioner of jurors for that city. Neither can the exercise of the power be considered as the doing of a single act not embracing the idea of tenure or duration and, therefore, not within the meaning of the prohibition against 'holding' any other office or public trust; but the power is continuous in its nature to be held permanently and to be exercised from time to time whenever those holding it see fit. A further objection is that, in some of its provisions, the bill is in conflict with section 18, article III of the Constitution, which prohibits the passing of a private or local bill in certain cases, and among them 'selecting, drawing, summoning or empaneling grand or petit jurors.' The bill is in all its provisions wholly inapplicable to any portion of the State, except the county of Erie; but so far as it in terms includes all counties having a population of three hundred thousand or more, with the exception of the counties of New York and Kings, it may be properly regarded as general and not local, and, therefore, not in violation of the section of the Constitution referred to. But there are running all through it provisions which in express terms relate only to Erie county. I refer to those parts of it which provide for selecting and drawing jurors for the Superior Court of Buffalo. These are plainly local and, if contained in a separate act, could not escape condemnation as unconstitutional, and I cannot see that any change in their character is effected by incorporating them in a bill otherwise general in its provisions. They cannot be regarded as being merely amendments of the sections of the Code of Civil Procedure relating to jurors for the Superior Court of Buffalo and, therefore, not within the prohibition of the Constitution. They do not purport to be such; they do not continue the existing system with a change in one or more of its details; but they abolish it altogether and substitute a new and entirely different one in its place.

I am heartily in sympathy with any movement whose object is to effect an improvement in our jury system and to provide the courts with better jurors, and I recently approved a bill applying to counties containing cities having a population of from 90,000 to 96,000, which provided for the appointment of a commissioner and a mode of selecting jurors not unlike that contained in this bill. But that bill was wholly free from the constitutional objections to which this one is subject.

It would certainly be an unfortunate event and could not fail to prove most hurtful in its consequences if this bill were to go into operation as a law and the new system of drawing jurors under it were to be fully inaugurated and the courts should then declare it unconstitutional. It will be much wiser to retain the present system until a bill, entirely free from even the suspicion of a constitutional defect, can be enacted, rather than to undertake to uphold this one."

May 23.

Veto of Assembly bill entitled "An act for the protection of the public parks of the city of New York."

"The purpose of this bill is to compel the city of New York to remove the dump used by the department of street cleaning on the North river, at the foot of Seventy-ninth street in that city, for the reason, as alleged by the promoters of the bill, that the existence of that dump has a tendency to depreciate the value of real estate in that vicinity because of the annoyance occasioned by the passage of the department of street cleaning carts through Seventy-ninth street on their way to and from the dump; and because during the prevalence of high winds dust is blown from the dumping-board as the carts are unloaded.

The mayor, representing the city, and the commissioner of street cleaning, for his department, oppose the bill upon the ground that it will seriously interfere with the proper performance of the work of street cleaning, and will greatly increase the cost of doing that work; which increased cost, while it would be incurred solely in the interest of the owners of property in that immediate vicinity, must be borne equally by all the taxpayers of the city.

From Fifty-ninth street to One Hundred and Twenty-ninth street on the North river, a distance of three and a-half miles, there are but two avenues of approach to the river available for public traffic, *i. e.* Seventy-ninth street and Ninety-sixth street; and everything that goes to or comes from the docks within those limits must be hauled through those streets, and the carts of the department of street cleaning form only a part of the trucking constantly going on in Seventy-ninth street, which includes brick, stone, sand, lime, lumber, manure and other rough material. While, therefore, the removal of the department of street cleaning carts from that street would not change its character as a great highway to the river front, it would compel those carts to pass for much greater distances through other streets in order to reach the dumps either above or below that at Seventy-ninth street, which is now the only dump on the North river between Forty-seventh street and One Hundred and Twenty-ninth street, a distance of four miles.

It is urged that the carts and dump of the department of street cleaning cause an annoyance and consequent detriment to property in that vicinity greater than that occasioned by the hauling and shipping of other material, and there appear to be good reasons for that claim. They apply, however, with equal force to all the department of street cleaning dumps, of which there are at present seventeen. The work of that department must be done. It could not be suspended for a day without seriously endangering the health of the city and causing inconvenience and annoyance far greater than that which is incidental to the removal of the refuse material of the city.

The remedy for the evils existing in connection with the removal of the city refuse is not to make removal difficult or impossible by stopping the carting of the material through the streets, or by closing the dumps. The only practicable and justifiable method is to employ such means as will result in an abatement of the nuisance connected with the work without hindering or impeding its performance, and that is what the city authorities have pledged themselves to do.

The assurance is given by the commissioner of street cleaning, endorsed by the mayor, that under the authority given by chapter 368 of the Laws of 1894, the dumps, commencing with the one affected by this bill, are to be housed in so as to protect them from the wind and prevent the escape of dust, and that they will be disinfected and deodorized so as to remove all danger to health or cause of annoyance from smell; and that the refuse material will be carried through the streets in covered trucks, thoroughly washed and disinfected, to be substituted for the carts heretofore in use.

The pledge is given me that these improvements will be made without delay, and they will remove the only reasons given for the approval of this bill."

May 23.

Veto of Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York.'"

"This bill is defectively drafted. The whole of the section amended should be inserted and not a few sentences of it."

May 23.

Veto of Senate bill entitled "An act to amend section four hundred and seventy-one of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relative to the construction or use of stables near places of public worship."

"This bill in addition to providing that no stable shall be erected within one hundred feet of any house or building occupied as a place of public worship in the city of New York, also provides that no stable shall 'be used' within one hundred feet of such a place of public worship. There are already many buildings in New York used as stables within this distance from a church, and legislative prohibition against such use is clearly unconstitutional."[r]

May 23.

Veto of Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relating to discharge of liens."

"By a clerical error in the second line of the amended section of this bill, the word 'of' is inserted in place of the word 'or.' While a slight mistake, it is sufficient to change the meaning of the sentence, and in the interest of clean and accurate legislation the bill should be vetoed."

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[r] Const. 1846, Art. 1, § 6.

May 23.

Veto of Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York' relative to the fire department."

"It is sought by this bill to restore section 433 of the consolidation act to the same condition in which it was prior to the enactment of chapter 123 of the Laws of 1892. In other words, it is designed to prohibit any commissioner of the fire department from being a candidate for any elective office upon the penalty of vacating his office as commissioner. I do not see any good reason for this prohibition, and, therefore, I am unwilling to approve this legislation."

May 23.

Veto of Assembly bill entitled "An act in relation to the government of the city of Brooklyn."

"This is a peculiar bill. With certain specified exceptions it makes the official tenure of all persons heretofore or hereafter appointed to official positions in the city of Brooklyn under the municipal charter subject to the pleasure of the officer, department or body making the appointment. In substance this would legislate out of office three or four hundred municipal employees appointed for definite terms or protected against arbitrary removal by general laws. Many old soldiers would be included in this 'fell swoop' and many deserving officials. No consideration of public interest has been presented to me why this bill should become a law, and it would seem to be not only partisan in its intent and purposes, but also a serious blow at good government and at the municipal civil service of Brooklyn."

May 23.

Veto of Senate bill entitled "An act providing for local improvements in the town of New Utrecht, and to establish a fund and lay assessments for the expense thereof."

"This bill is defectively drafted as regards particularly that provision which confines the sale of the authorized issue of bonds to trust companies and incorporated financial institutions doing business in the county of Kings and in the city of New York. No such restriction ought to be placed upon the sale of the bonds of any municipality.

The failure of the bill to become a law will not cause any particular embarrassment, for the reason that the expenditure of five hundred thousand dollars for similar purposes was authorized last year and made effective by remedial legislation enacted this year."

May 23.

Veto of Assembly bill entitled "An act to amend chapter three hundred and ninety-one of the laws of eighteen hundred and ninety-three, entitled 'An act for the protection of purchasers of coal in cities of over eight hundred thousand inhabitants and under twelve hundred thousand inhabitants, and providing for the enforcement thereof.'"

"This bill is not approved, because it is obnoxious to section 8, article V of the State Constitution."

May 23.

Veto of Assembly bill entitled "An act in relation to the construction and maintenance of division ditches."

"This bill provides for the compulsory construction of division ditches, instead of division fences, anywhere in the State and without limitation as to the exceptional cases in which division fences would be more serviceable than division ditches. While there may be exceptional instances in which an adjoining owner should be compelled to build his share of a division ditch, a law providing for the compulsory construction of a division ditch in any case where the fence viewers require it might work serious hardship.''

May 23.

Veto of Assembly bill entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages.'"

'' This bill amends the general village law by providing that report shall be made to the county treasurer of unpaid village taxes upon the lands of non-residents. The law at present provides two remedies for the collection of such taxes by the village authorities. First, by sale of the lands and second, by action and judgment. It would be incongruous and inconsistent to impose upon the county treasurer the collection of village taxes, even if the present law were not ample for the collection of such taxes by the proper village authorities.''

May 23.

Veto of Assembly bill entitled "An act to amend the Code of Civil Procedure, relating to compensation of attorney for services."

'' This bill amends section 66 of the Civil Code as to the lien of an attorney upon his client's cause of action by adding the following new sentence: 'Any such action, notwithstanding any such settlement before judgment, for the purposes of enforcing said lien, may be prosecuted to judgment in the name of the original party and at his expense.' The law at present allows the attorney in a proper case to prosecute at his own expense an action settled by his client in fraud of the attorney. This is as far as the law ought to go in this direction. The action cannot be deemed to be settled in fraud of the attorney if the client is financially responsible. If the client is not financially responsible, it is difficult to see what can be gained by allowing prosecution of the action at the expense of the client. This bill should be entitled 'A bill to prevent the settlement of law suits.'"

May 23.

Veto of Senate bill entitled "An act relating to the jurisdiction of the Board of Claims."

"This bill provides that 'the Board of Claims shall have jurisdiction and power to investigate, hear and determine any application or claim presented by the heirs, next of kin, or representatives of any deceased person for the release by the State of its interest in the proceeds of property that has at any time been escheated to the State.' The bill contains no statute of limitations and would enable any heirs, next of kin or representatives of any person whose lands had been escheated to the State and sold by the State, from 1777 to date, to prosecute claims for the recovery of such proceeds."

May 23.

Veto of Assembly bill entitled "An act to amend the Highway Law, relating to commutation money for road district work;" and

Assembly bill entitled "An act to amend the Highway Law, relating to the money system of repairs of highways."

"These two bills amend sections 53 and 62 of the Highway Law, respectively. The first provides that if the assessment for highway labor be commuted instead of worked out, the commutation money shall be paid to the commissioners of highway, to be expended anywhere in the town, instead of being paid, as at present, to the overseer of the road district, to be expended by him in the district.

The second bill provides that if the money system of working highways be adopted in any town instead of the labor system, that the town shall pay for road machines owned by any road district in the town, but makes no provision for transferring the ownership of such machines to the town paying for them. The mere statement of the changes proposed by these bills is their sufficient condemnation."

May 23.

Veto of Assembly bill entitled "An act to amend chapter two hundred and thirty-eight of the laws of eighteen hundred and ninety, entitled 'An act to provide for the establishment of a house of refuge for women in western New York.'"

"This bill provides that every female between the ages of fifteen and twenty years, convicted anywhere in the State of habitual drunkenness, or of being a common prostitute, or of being disorderly, or of frequenting a disorderly house or house of prostitution, must be sentenced and committed either to the House of Refuge for Women in Western New York or to the House of Refuge for Women at Hudson. It is not possible that these two institutions can receive all the women so convicted. Moreover, it is fundamental to the reformatory purpose for which these institutions were created, that courts and magistrates imposing the sentence should select for these institutions such women only as they have reason to believe are capable of reformation."

May 23.

Veto of Senate bill entitled "An act amending the highway law, so called, as enacted by chapter five hundred and sixty-eight, laws of eighteen hundred and ninety; and the acts amendatory thereof;" and

Assembly bill entitled "An act to amend the highway law relating to towns in the county of Oneida."

"These two bills both amend section 130 of the highway law and are precisely alike, except that section 2 of the second bill provides that 'nothing in this act shall invalidate or affect any claim presented by any of the towns or cities of Oneida county before the passage of this act.' By the present law if the expenses for the construction and repair by any town of its public free bridges, either wholly within the town or across its boundaries shall exceed one-sixth of one per cent. on the assessed valuation of the taxable property of the town for that year, the county in which such town is located shall then pay at least one-third of such excess. These bills make the county liable only for one-sixth of the expenditure by a town for the construction and repair of bridges across streams forming its boundary line. There may be exceptional cases where the town should pay a larger proportion of its expenses for bridges than the present law requires, but it will more frequently happen that one town in a county may be so situated that it is compelled to construct bridges for the benefit of the entire county. I am satisfied that the present law will be more just and satisfactory than the amendment proposed by these bills."

May 23.

Veto of Assembly bill entitled "An act to amend the code of criminal procedure, relating to review on appeal from minor courts; and

Assembly bill entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' and the acts amendatory thereof, relating to the judgment of the court of special sessions in certain cases made final."

"The first of these bills amends section 749 of the Code of Criminal Procedure by adding at the end thereof the following sentence: 'This act shall not apply to a person convicted as a disorderly person in the city of New York for failing or neglecting to provide for his family, wife or child.'

The second bill amends section 1456 of the New York Consolidation Act, by adding at the end thereof the following sentence: 'And the judgment of such Court of Special Sessions on any such appeal or order of the said Court of Special Sessions making any amendment hereby authorized shall be final,' the repeal referred to being from an order of a magistrate in New York city convicting a disorderly person for abandoning or neglecting to support his family, wife or child. The words 'this act' in the first bill must be held to refer to the entire Code of Criminal Procedure. It would seem that only section 749 of the Code was intended to be made inapplicable to convictions as disorderly persons in New York city, but the bill would make the entire Code inapplicable.

The second bill was intended to settle the vexed question whether appeals from convictions by magistrates in such cases should be to the court of Special Sessions of New York city, in pursuance of the Consolidation Act, or to the Court of General Sessions, as provided by section 749 of the Code, and may possibly accomplish this purpose. But the further declaration that the judgment of the Court of Special Sessions, on any such appeal, shall be final, would seem to me to prevent any appeal therefrom to the General Term of the Supreme Court, as provided by the Code of Criminal Procedure, notwithstanding the argument of the framer of the bill that such was not intended to be its effect."

May 24.

Veto of Assembly bill entitled "An act to prevent the display of foreign flags or emblems on public buildings." [37]

"It is a questionable sort of patriotism which seeks the enactment of such bills as this. If the measure were approved, it would be unlawful hereafter to display the flag or emblem of any foreign country upon any State, county, town or municipal building, except upon the occasion of a foreigner becoming the guest of the United States, the State or of any city, and then only upon the proclamation of the Governor or of the Mayor of such city.

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[37] An act was passed in 1895, chapter 36, providing that it "shall not be lawful to display the flag or emblem of any foreign country upon any state,

America is big and broad and free in its political tolerance as well as in its territory, and such proposed legislation as this makes it seem small and narrow and clannish. Our population is made up of men of all nationalities. The blood of every foreign nation mingles here with that of the Angle-Saxon race. It is this commingling of races that makes our American blood good and our nation strong and robust. Does it make the American of foreign blood or descent any less an American to see the flag of his fatherland floating beneath the stars and stripes on our public buildings? On the contrary, it seems to me that while recalling the associations of his native land, such a sight would remind him also of the reasons which induced him to leave that land and would stir within him new devotion to the Republic which has given him equal rights and equal opportunities. If American patriotism is of such weak stamina that it can be allured by the display of foreign bunting, legislation like this cannot save it from speedy and utter ruin.

I prefer to think that love for our country is of a deeper and stronger character — a love that is generous and tolerant, but is of unquestioned loyalty in times of real danger. The truest patriotism is that which is broad enough to ignore race and creed and consider only the

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county or municipal buildings; provided, however, that whenever any foreigner shall become the guest of the United States, the State, or any city, upon public proclamation by the Governor, or mayor of such city, the flag of the country of which such public guest shall be a citizen may be displayed upon such public buildings."

good of the common country. Such legislation as that proposed by this bill finds its inspiration only in intolerance — in religious or racial prejudice — in the false patriotism of narrow minds. It is un-American in spirit and is opposed to the liberal traditions and progressive aims of the American people. It is based on a sickly sentimentality and should find no support among broad-minded and sound-bodied Americans.

Let us not restrict the display of bunting; on gala days let us hoist the flags of all nations; but above all others let the stars and stripes float triumphant, and thus, in our display of colors and emblems, we shall best symbolize the varied yet homogeneous character of our population."

May 24.

Veto of Assembly bill entitled "An act to provide for licensing foreign stock corporations."

"The purpose of this bill was commendable, namely, to remove from persons desiring to form a corporation to do business in this State the motive to form their corporation under the laws of other States, as, for instance, New Jersey and West Virginia. It is known that this has been done in many instances, almost solely for the purpose of avoiding the payment of one-eighth of one per cent. tax on their capital stock. The bill has been so amended in the Legislature, however, that it would probably fail to accomplish its purpose. It does not reach all of the corporations it was intended to reach, and does cover certain corporations, particularly life insurance companies, which it was not designed to cover. To enact it in its present shape would probably be to invite litigation and to inflict unjust discriminations. It were better to defer the legislation till another session, when it can be put in proper shape to permit its purpose to be carried out."

May 24.

Veto of Senate bill entitled "An act to amend section one hundred and thirty of the Penal Code."

"In a special message to the Legislature on April eleventh last, I called its attention to the danger which threatened the Adirondack park unless an oversight in the revision of laws relating to the sale and redemption of lands sold for taxes was corrected so as to restore the excellent legislation contained in chapter 398 of the Laws of 1893. I pointed out that over 300 applications for the cancellation of tax sales, through which the State had come into possession of about 150,000 acres of Adirondack lands, had been filed in the Comptroller's office, and that unless the defect in the law were corrected the State would be exposed to the loss of these 150,000 acres, and eventually to a large proportion of its Adirondack holdings. I said further:

'Although the State's interest in this legislation is manifest and every consideration of public interest would seem to demand its enactment, mysterious influences appear to retard its passage. If this legislation should fail, the partial destruction of the Adirondack park would be threatened and State forest lands would be turned over to the devastation of lumbermen. A few Adirondack land or timber speculators would secure from the Legislature favors denied to the six and a-half million people whom the Legislature is supposed to represent. That would be a perversion of duty and official responsibility which would justly bring reproach upon the people's representatives. I sincerely trust that the Legislature will not allow any adverse influences to defeat the passage of this bill at the present session. It is a measure of great public importance and its defeat would be a calamity to be regretted by every friend of forest preservation.'

In spite of these solicitations the Legislature refused to pass the bill. The 'adverse influences' prevailed to kill the measure. Not only, however, did these influences succeed in preventing legislation obnoxious to their interests, but they succeeded in securing legislation which is directly favorable to their interests. This is contained in the bill now before me. Upon the hearing before the legislative committees on the cancellations bill, the fact was brought out that some of the speculators who have been trading in Adirondack titles had violated the Penal Code and subjected themselves to indictment for misdemeanor. This discovery was evidently startling to those whom it affected, and was followed by the introduction and passage of the amendment to the Code contained in the bill before me, which protects the speculators in their dealings in pretended titles and makes it difficult to convict the persons who are engaged in purchasing claims against lands now owned by the State in the Adirondacks, with the view to instituting proceedings for cancellations in the Comptroller's office.

It is certainly unfortunate that such legislation should pass at any time, but it is the more unfortunate that the persons whose selfish interests were promoted by it should have greater influence with the Legislature than the six and a-half million people in the State who are interested in the preservation of the Adirondack park. To refuse to correct a palpable error in the law, so that hundreds of thousands of acres might be saved to the State, was unfortunate enough, but to supplement that refusal by passing a law which would protect from prosecution for a criminal offense persons engaged in an illegal attempt to get possession of State lands is altogether discreditable. I take pleasure in withholding my signature from the bill."

May 24.

Veto of Assembly bill entitled "An act to open the Fulton chain of lakes and the connecting streams thereof as a public highway."

"This bill is objectionable for several reasons. In the first place, while providing that all damages occasioned by the opening of the streams and lakes as public highways shall be paid by the State, the bill allows the State no voice in the determination of those damages, and it might therefore be mulcted to a large amount. Moreover, the proceedings as to appraisals should be under the direction of a judge of the Supreme Court, instead of a judge of the County Court. In the second place, while subordinating the public use of the lakes and streams to the right of the State to use the waters of said lakes and streams as a feeder and reservoir for the Black river, the effect of the bill would probably be to seriously impair the use of these waters as a feeder, or to involve the State in litigation, or to occasion unseemly strife in the Legislature hereafter between the interests represented on the one side by the lake navigation interests and on the other side by the Black river water-power owners."

May 24.

Veto of Assembly bill entitled "An act to amend chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to the public health, constituting chapter twenty-five of the general laws,' and to repeal chapter two hundred and fifty of the laws of eighteen hundred and ninety-three, entitled 'An act to amend chapter three hundred and sixty-one of the laws of eighteen hundred and eighty-four, entitled 'An act to establish a state board of pharmacy and to regulate the practice of pharmacy throughout the state of New York, except in the counties of New York, Kings and Erie.'"

"This bill amends sections 184 and 187 of the public health law. The general object of the amendment to section 184 is to enable persons who have failed to apply for their licenses as pharmacists within the time prescribed, to make application hereafter, and also to correct a clerical error in the existing section by changing the word 'resignation' to 'registration.' The only amendment apparently intended to be made to section 187 was to correct the spelling of the word 'peppermint,' and another clerical error is made in the bill by changing the word 'usual' to 'unusual,' so as to permit the sale of unusual domestic remedies by retail druggists in the rural districts without license as pharmacists and to prohibit the sale by them of usual remedies. The new clerical error is more serious than the clerical error which the bill undertakes to correct, and the measure ought not to be approved in its present shape."

May 25.

Veto of items in Assembly bill, chap. 768, the supplemental supply bill.

"'For Frank S. Black, for professional services in the matter of the investigation of election frauds, by a committee of the Senate, two thousand dollars.'

'For William J. Ludden, for professional services in the matter of the investigation of election frauds, by a committee of the Senate, two thousand dollars.'

The work done by this committee was partisan in its purpose and partial in its execution. It was carried on by concealing the election frauds of one party and exposing in exaggerated form those of the opposite party. The investigation accomplished nothing. It served no public purpose in the manner in which it was conducted. The employment of counsel under such circumstances was a misuse of power. The compensation allowed is more than would be paid by individuals for the services rendered."*

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* The supply bill of 1895, chap. 932, contained appropriations for Mr. Black and Mr. Ludden for services in connection with certain investigations in Troy.

May 25. The omnibus veto included the following bills:

Assembly bill No. 579, entitled "An act to amend the Penal Code, relating to autopsies in insane asylums and hospitals;"

Assembly bill No. 1691, entitled "An act relative to persons holding the office of justice of the peace;"

Assembly bill No. 800, entitled "An act to amend the Penal Code, relative to loans on personal credit;"

Assembly bill No. 1574, entitled "An act to provide for the incorporation of associations for lending money on personal property and to forbid loans of money, property or credit;"

Assembly bill No. 441, entitled "An act to enable the city of Niagara Falls to acquire such lands as may be necessary to extend Pierce avenue, in said city, from Whirlpool avenue easterly to Sugar street;"

"Assembly bill No. 1563, entitled "An act to amend the Penal Code, relative to lotteries;"

Senate bill No. 798, entitled "An act to repeal section nine of chapter three hundred and forty-seven of the laws of eighteen hundred and eighty, entitled 'An act to provide for the reporting of appointments or commitments to the benevolent institutions of the State, excepting the county of Kings,' so as to make the provisions of said act applicable to every county of the State;"

Senate bill No. 129, entitled "An act to amend chapter two hundred and thirty-one of the laws of eighteen hundred and seventy-three, entitled 'An act to amend the charter of the West Side German dispensary in the city of New York,' as amended by chapter four hundred and twenty-seven of the Laws of eighteen hundred and ninety-two," and

Senate bill No. 1015, entitled "An act for the adjustment and satisfaction of certain taxes upon the property of Union college."

NOTE.— Governor Flower died on the 12th day of May, 1899. His death was announced by Governor Roosevelt in a proclamation issued on the 14th. The Legislature was not then in session, but at the extraordinary session which convened on the 22d of May, 1899, a joint committee of the

Senate and Assembly was appointed to prepare a memorial to the late Governor Flower. Action was postponed until the regular session of the Legislature of 1900, and on the 26th of March a resolution was adopted by the Senate, which was concurred in by the Assembly the next day, providing for memorial services to be held in the Assembly Chamber on the 3d of April, 1900, at eight o'clock in the evening.

At the time named the Senate and Assembly met in joint session, and the meeting was called to order by Senator Elon R. Brown, chairman of the joint committee, who introduced Governor Roosevelt as the presiding officer of the evening. A memorial address was delivered by Hon. John B. Stanchfield of Elmira.

1895. JANUARY 2. LEGISLATURE, ONE HUNDRED AND EIGHTEENTH SESSION.

LEVI P. MORTON, Governor.

ANNUAL MESSAGE

STATE OF NEW YORK.

Executive Chamber,
Albany, *January* 2, 1895.

To the Legislature.—In submitting to the Legislature of New York my first annual message, I am profoundly impressed with a sense of the far-reaching responsibility that devolves to-day upon both the legislative and executive branches of our State Government. The complete control of both of these divisions of the public power and authority has been transferred from one political party to another, and this transference of authority has been made in the hope and firm reliance of the people who ordained and wrought the change, that great benefit would inure to the whole Commonwealth from the new order of things. To realize this aspiration of the sovereign people should, apart from all partisan motives, attract and gratify the highest ambition of which we are capable, and stimulate us to the furthest effort of human exertion.

The duties and obligations with which we are charged are this year more than ordinarily important and onerous. The new legislation which is required to give effect to the labors of the Constitutional Convention is of essential importance. The closest care will be demanded that no hasty, incomplete or ill-advised measures be enacted, otherwise the

Levi P. Morton

work and purpose of the Convention may be embarrassed and possibly nullified for a year. Indeed, the work of framing and perfecting the laws made necessary by the amendments to the Constitution is likely to prove so exacting, laborious and comprehensive that I regard it as my duty to recommend the most prompt action, so that by the end of your session the purposes of the people will have been fully accomplished and wrought out, through your energetic and intelligent labors.

EXECUTIVE POWER AND DUTY.

The chief duty of the Governor of the State of New York is "to take care that the laws are faithfully executed." The framers of American Constitutions, National and State, have always kept in view the principle of separation between the legislative, executive and judicial branches of the government. But there always have been certain points where these co-ordinate branches have met and crossed each other. The State Constitution imposes upon the Chief Executive certain responsibilities with reference to legislation. He is required to take the initiative in legislative proceedings by that provision which charges him with the duty of communicating by message to the Legislature at every session, the condition of the State, and recommending to their attention such matters as he shall deem expedient.[a] When the Legislature has enacted a measure, the Governor must pass judgment upon it by giving or withholding his official approval.[b] He thus finds himself, in a certain way, involved with both the beginning and the ending of all important legislation. But it is my conviction that the Governor should never interfere with the work of the Legislature beyond the precise line which his constitutional duty and obligation warrants. The veto power, as it is commonly called, is one that should be exercised with great care and only when the interests of the State are in question. The Chief Executive should never use it as an instrument to aid in impressing or imposing his will upon the Legislature, nor should it be invoked to serve personal or partisan ends.

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[a] Const 1894, art. 4, § 4

[b] Const. 1894, art. 4, § 9.

The first duty of my official life is that of communicating to the Legislature the condition of the State and recommending such legislation as seems to be advisable. That duty is entered upon by me with great diffidence, because I feel that in your respective houses are many legislators who must have a wider knowledge, gathered from their long experience, than I can be assumed to possess regarding the affairs of this great commonwealth.

TAXATION AND THE FINANCES.

I congratulate you and the people whom you represent that we commence the new year under favoring auspices. The business outlook is much improved as compared with its condition a year ago. The worst of the "hard times" have apparently passed away, and we may reasonably hope that during the ensuing year we will be blessed with a fair degree of prosperity. The finances of this State are in excellent condition. There is no State indebtedness whatever, while the permanent funds, including the United States Deposit Fund, aggregate $9,210,394.30 of principal. The Comptroller informs me that the amount realized from the transfer tax (otherwise known as the inheritance tax) during the last fiscal year was $1,688,954.24, and from the corporation and organization taxes $1,796,640.87, making a total of $3,484,585.11. The amount of the transfer tax was much less than was received last year, but it should be borne in mind that last year's receipts were greatly augmented by taxes paid upon some very large estates and were very much greater than in any other year since the tax went into operation. The State realized, however, during the last year more than half a million dollars in excess of the average of the eight preceding years. It is quite evident that this tax will not, for years to come, yield more than $2,000,000 annually.

The amount realized from taxes on corporations was also somewhat less than it was during the fiscal year ending in 1893. This falling off was doubtless attributable to the business depression by which the revenues and income of corporations were unfavorably affected, but the shrinkage would have been much greater had the Comptroller been less diligent and efficient. It has been the policy of the State for nearly a decade to relieve the people so far as possible from direct taxation for State purposes. There is but little prospect that the present indirect tax laws will bring into the treasury more than $4,000,000 annually, for a long time to come, leaving from $8,000,000 to $10,000,000 to be raised each year by direct taxation. I recommend the Legislature to devise ways and means, if practicable, for the enlargement of the field of direct taxation, but any effort in that direction should be based upon equitable principles and great care should be taken that the burdens placed upon business enterprise are not too heavy.

The rate last year was 2 $\frac{18}{100}$ mills on the dollar, as against 2 $\frac{58}{100}$ the year before. It is made up as follows: For the general fund, $\frac{55}{100}$; for extraordinary repairs on the canals, $\frac{15}{100}$; for maintenance and ordinary repairs on the canals, $\frac{21}{100}$; for the free school fund, $\frac{96}{100}$, and for the maintenance of State hospitals for the insane, $\frac{31}{100}$. Leaving out the last item, which was not included in the State tax levy until 1893, the rate last year was the lowest in the history of the State, with the exception of the rate in 1891, when, owing to peculiar circumstances to which I refer elsewhere in this document, nothing was raised for the general fund.

THE STATE'S FINANCIAL NEEDS.

The condition of the fiscal affairs of the State is such as to demand the serious attention of the Legislature. The assumption by the State of the care of the indigent insane, and the creation and maintenance of numerous and expensive commissions, are the chief causes which make remedial legislation for the treasury necessary. Under the present system, the tax levy made in any one year is not available until the middle of April in the following year, while most of the appropriations made in the same year become available very soon after the passage of the act. In other words, a large part of the moneys required for the maintenance of the State government for any one year is expended before any portion of the tax levied to meet such expenditures reaches the treasury. As an illustration, I may say that I learned from the Comptroller that $6,284,849 of the tax levy of 1894 will have been expended before a dollar of the tax will have reached the treasury.

This feature of the State's business has always been a source of embarrassment to its fiscal officers, and in 1883 the Comptroller recommended that a surplus of $1,000,000 be created for the purpose of tiding the treasury over the non-tax-receiving period between October first and April fifteenth. This recommendation was adopted, and the million dollar surplus raised; but in 1891 the party in power deemed it expedient to fix a low tax rate, in the face of heavy expenditures, and as a result the million dollar reserve was included among the available assets of the treasury. But even the absorption of this surplus would not have saved the treasury from a deficit in that year, had it not been that the $2,213,000 received from the United States government was also taken and used. Simultaneously with this absorption, or perversion, of the surplus fund, the Legislature passed various measures which, in their ultimate effect, would tend to augment the expenses of the

State, notably the State-care-of-the-insane act, under the provisions of which the counties of New York and Kings propose to transfer from themselves to the State a burden of over a million and a quarter of dollars, annually expended for the care of the insane.

Since 1891, it has been with the greatest difficulty that the current expenses of the government have been provided for during the six and a half months from October first to April fifteenth, and when unusual conditions have arisen, as in the present year, it has been necessary for the State to become a large borrower.

The necessity for a surplus was pressing before the State assumed the care of the insane, October 1, 1893; but with the enormous monthly payments called for by the State-care-of-the-insane act, a surplus now seems indispensable to a proper maintenance of the State government. Moreover, it is expected that New York and Kings counties will this year transfer the care of their indigent insane to the State as they have a perfect right to do, in which case the expense of caring for the insane will be doubled.[1] As matters now stand nearly $900,000 are annually advanced from the treasury under the State-care-of-the-insane act before a single dollar of the tax levied for the support of the insane reaches the treasury.

In view of this condition of affairs, I respectfully recommend that the tax levy for the care of the insane be so adjusted as to yield a surplus of one million and a half of dollars. I would, also, recommend that such legal safeguards be thrown about this surplus that it will be impossible to use it for any other purpose than the one for which it was created.

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[1] Chapter 628, passed May 11, transferred the grounds, building, and equipments of the Kings County Lunatic Asylums, with their inmates to the State, and established in lieu thereof the Long Island State Hospital.

The transfer of the New York city insane asylums to the State was effected by L. 1896, chapter 2, which also established the Manhattan State Hospital.

When dealing with this subject it would doubtless be well, also, to amend the laws so as to set a uniform date or period within which all county treasuries shall be required to forward their tax collections to the State treasury. While the bulk of the payments are now made on and before April first, the treasurers of some of the wealthiest counties in the State have fallen into the questionable practice of withholding the funds until July or August. The public good requires that this laxity shall be promptly remedied and prohibited.[2]

THE NEED OF PUBLIC ECONOMY.

I especially desire to call attention to the great and growing demand for the most rigid economy in the management of the different departments of our State government. From year to year, and especially during the past twelve or thirteen years, these expenses have grown until the burden is becoming grievous and unbearable to our citizens. Indirect forms of levying taxes have been resorted to, with the idea of relieving or shifting the burden of taxation, but the remedy, and the only remedy, to relieve the people and the industries of this State from the burdens now felt so severely is by the practice of reasonable and just economy in all State expenditures.

While I think a great reduction in expenditures could, without injury to the public service, be secured in all the departments of the State, I feel that a greater extravagance arises from the multiplicity of "commissions," which have increased so rapidly in number and expense since about the year 1880. From an expenditure for the duties covered by these commissions of less than $4,000 in 1880, we have seen a growth from year to year, until the cost of these commissions alone amounted last year to nearly a million and a quarter of dollars. Some of these commissions are unnecessary, and should be abolished. Some of them should be consolidated with or made bureaus of correlative departments of the State government, and by such consolidation a very material reduction in the expense of their operation could be secured.

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[2] By chapter 558, passed May 8, to provide "for the payment of the State tax into the treasury of the State" county treasurers were required to pay into the State Treasury one-third of the tax collected by them on or before the 15th of February, one-third on or before the 15th of April, and the balance at the time then required by law. The act provided for penalties for the non-payment of such taxes.

I understand that last year an investigation of some of these commissions was undertaken by the Joint Committee — the Ways and Means of the Assembly, and the Finance of the Senate. That inquiry was prosecuted as far as possible during the session of the Legislature, but owing to the great pressure of other labors at the end of the session, it was impossible to complete the work or to prepare and pass all of the necessary remedial legislation. I think the sentiment of the people is more decided now than ever before that some radical change should be made on the lines above suggested. It is our duty to pay attention to this demand. The carrying out of this reform must be accomplished by the Legislature. I would recommend, therefore, that a committee be appointed in such manner as may seem to the Legislature wise, fully authorized and empowered to investigate and report the expense of carrying on the various departments of the State, so that the people may be thoroughly informed as to the expenditures that are necessary and those that are unnecessary; and that such committee be authorized, after due investigation, to report such remedial measures to the Legislature as may seem fit and proper. The appointment of this committee as early in the session as practicable appears to be desirable, so that the work shall be begun early, and the legislation necessary to carry out the recommendations of the committee passed at this session.[3]

THE NEW CAPITOL.

I call your especial attention to the question of the completion of the New Capitol. In 1890 work was recommenced on this great edifice, after a cessation of several years. The Commissioner of the New Capitol then estimated that the building could be completed for something less than $2,300,000. About $18,400,000 had then, already, been expended upon it. The Legislature finally concluded to finish the structure and made an appropriation for that purpose. Succeeding Legislatures have taken measures in the same direction, with the result that appropriations aggregating more than $3,000,000 have been made since the estimate above mentioned. The people are thoroughly tired of this seemingly endless drain upon the treasury. It is time that decisive steps be taken to prosecute this work to a close in the very near future, and within a reasonable limit of expenditure. While the Commissioner of the New Capitol is entitled to great credit for the excellent quality of the work that has been done under his supervision, there is a general feeling that the amount of money that is being expended is entirely too great. I suggest that the Legislature procure, from the Commissioner and other competent authorities, specifications of the work necessary to complete the building, together with estimates as to the cost, with the view that, if deemed advisable, the work be completed by contract.[4]

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[3] A concurrent resolution was adopted in January, providing for the appointment of a joint committee composed of four senators and seven members of the Assembly to investigate all the departments, bureaus, offices, commissions, and institutions of the State, as to the management and expenses of the same, and to recommend such changes in the law as will bring about a reduction in the expenses of the management and greater economy in the public service.

Near the close of the session the time of the committee was extended, and it was authorized to report at the opening of the session of the Legislature of 1896.

THE CONSTITUTIONAL AMENDMENTS.

The principal matters in respect of which the amendments to the Constitution impose an immediate duty upon the Legislature seem to me to be the following:

1. The new judiciary article (article 6) requires the Legislature to divide the State into four judicial departments, in each one of which is to sit a branch of the new appellate division of the Supreme Court. The abolition of the criminal courts of Oyer and Terminer and Courts of Sessions and of the civil Circuit Courts, and of the Court of Common Pleas and the Superior Court in New York, the City Court of Brooklyn and the Superior Court of Buffalo, require a careful revision and modification of the great number of statutes, so as to adapt them to the new system. This is particularly important in regard to criminal jurisdiction. The transfer of the jurisdiction of the nine existing General Terms to the new appellate divisions and the changes in the jurisdiction of the Court of Appeals and of the right of appeal to that court, require extensive changes in the statutes upon those subjects.

In order to take over the business of these Superior City Courts with their numerous clerks, offices and records, legislation will be necessary to enable the county clerks of the respective counties to undertake and carry on the business. The records of the Court of Common Pleas extend over a period of about 200 years, and are of great importance and value and should be carefully provided for. All of this work must be completed at this session of the Legislature, because the new courts are required to go into operation on the 1st of January, 1896. The necessity of early and sustained action on this subject is, therefore, apparent.

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[4] Chapter 737, approved May 23, provided for a commission to superintend the completion of the capitol and approaches, consisting of the Lieutenant-Governor, State Engineer and Surveyor, and Superintendent of Public Works, and two persons to be appointed by the Governor. Work, with some limited exceptions, was to be done by contract. The act appropriated $400,000 for expenses of the commission, other expenses, and for continuing the work of constructing such portions of the capitol as the commission shall determine to have done by day's labor.

It is of special importance that the division of the State into four judicial departments should be made at the earliest date possible, in order that I may discharge the duty which the Constitution imposes upon the Governor, of designating the justices of the Supreme Court, who shall constitute the appellate divisions in the several departments. It is important that these justices should be selected and assigned before the legislative session closes, so that they may consult together and advise the Legislature as to what action, on its part, is necessary for the successful inauguration of the new system. As the justices are to have the responsibility of making a practical working court, their advice and assistance should be had, in respect to the perfection of the details, while there is still time for their views to receive practical and effective attention.[5]

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[5] Four judicial departments were created by chapter 376, passed April 23; the first department to consist of the first judicial district, the city and county of New York; second department, of the second judicial district; third department of the third, fourth and sixth judicial districts, and the fourth, of the fifth, seventh and eighth judicial districts.

The same act provided for an appellate division of the supreme court in each judicial department in accordance with article six, section 2 of the Constitution. The act also provided for the designation of justices for the appellate division, transfer of appeals, and details as to the jurisdiction of the appellate division, reporter, clerk and the location of courts. The act provided for the appointment of trial and special terms of the supreme court.

The criminal jurisdiction of the new courts was prescribed by chapter 880, approved June 4, amending the Code of Criminal Procedure.

Chapter 946, approved June 6, amended the Code of Civil Procedure in numerous particulars relating to the jurisdiction of the courts and to procedure.

2. Section 2 of article 12 of the revised Constitution requires that the Legislature shall provide for the giving of public notice and opportunity for a public hearing, concerning every special city law, in every city to which it relates, before the mayor of such city accepts or refuses to accept the bill. Such provision seems to be prerequisite to the passing of special city laws, and as a number of new laws are by general consent urgently and speedily required for the city of New York, the provision for hearings before the mayor ought to be made by the Legislature at the earliest possible date. Provision is made in this section for the classification of cities into three legislative classes, on the basis of the latest official enumeration of their populations. Your attention is required to give this amendment its intended effect.[6]

3. The Penal Code of this State contains numerous and apparently sufficient provisions against gambling. Among these provisions, section 351 makes poolselling and bookmaking upon races criminal offenses. By chapter 479 of the Laws of 1887 (commonly known as the Ives Pool bill), the Legislature exempted from the operation of the abovementioned section the race tracks and grounds of incor-

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Section 234 of the Code of Civil Procedure (Governor's appointment of extraordinary terms), amended by chap. 946, was sustained in People v. Young (1897), 18 App. Div. 162.

In 1905 the Constitution, article 6, section 1, was amended by authorizing among other things, the erection of an additional judicial district out of territory then embraced in the second district. Acting under this authority the Legislature of 1906, by chapter 294, divided the second district, and erected from a part of the territory a new district to be known as the ninth, composed of the counties of Westchester, Putnam, Dutchess, Orange and Rockland.

[6] Chapter 1, passed January 28, made provision for the submission of special city laws to prescribed authorities in second and third class cities, and for the action to be taken by them, including the required authentication and certification thereof.

Chapter 9, passed February 6, made similar provision as to first class cities.

These statutes were included in the general city law of 1900, chapter 327.

porated racing associations during thirty days of each year, and thus permitted, upon those tracks and grounds alone, the acts which remain criminal in all other parts of the State. The revised Constitution, section 9 of article 1, adds to the old provision against lotteries a provision that neither poolselling, bookmaking, nor any other kind of gambling, shall hereafter be authorized or allowed within this State, and requires the Legislature to pass appropriate laws to prevent offenses against any of the provisions of the section. It is well understood that this provision is aimed at the race-track gambling permitted by the statute of 1887, above mentioned, and the Legislature, in obedience to the will of the people thus expressed, should, without delay, expunge the obnoxious law from the statute books.[7]

4. The provisions of law establishing Civil Service boards and examinations in this State have hitherto had only legislative and not constitutional sanction. The Court of Appeals has held that, in view of the express powers conferred by the Constitution upon the Superintendent of Public Works and the Superintendent of State

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[7] The Governor's recommendation as to the repeal of the Ives Pool Law of 1887, chapter 479, was included in chapter 570, passed May 9, which repealed that statute and several others relating to the same subject.

Chapter 570, provided for the incorporation of associations for the improvement of the breed of horses, and to establish a state racing commission. Further provision relative to racing associations was made by a supplemental act, chapter 573.

Section 343 of the Penal Code, relating to keeping gaming or betting establishments, was amended by chapter 571, passed May 9.

Section 351 of the Penal Code, relating to pool-selling and book-making was amended by chapter 572, passed May 9.

Chapter 570 was sustained in People ex rel. Sturgis v. Fallon (1897), 152 N. Y. 1, and in People ex rel. Lawrence v. Fallon, 152 N. Y. 12, but was held unconstitutional as to the recovery of sweepstakes in Dudley v. Flushing Jockey Club, 14 Misc. 58.

Chapter 572, amending section 351 of the Penal Code was sustained in People ex rel. Weaver v. Van De Carr (1896), 150 N. Y. 439. See the Governor's memorandum of May 9, approving the foregoing bills, *post* p. 601.

Prisons,[c] the Legislature had no authority to subject the appointments made by those officers to Civil Service rules.[d] It is believed that the Civil Service provision authorized in the revised Constitution as section 9 of article 5, obviates this difficulty and permits the Legislature to extend the Civil Service rules to the State prisons, the canals and other public works of the State.

5. Upon a separate submission of section 10 of article 7, the people have, by a majority of about 115,000, much larger than that cast for any other amendment, declared their will that the canals shall be improved in such manner as the Legislature shall provide by law.[8]

6. The new provision of section 1 of article 9, requires the Legislature to provide for the maintenance and support of a system of free common schools, wherein all the children of the State may be educated. That is now far from being the case, and the Legislature ought to take immediate steps to fulfill this mandate. Special investigation should be made to ascertain what children may be cut off from educational facilities by force of the new provision of section 4 of article 9.[9]

7. Section 29 of article 3 requires the Legislature to provide by law for the occupation and employment of prisoners in the State prisons, and as the same section prohibits the continuance of the present system of employment after the 1st of January, 1897, no time should be lost

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[c] Const. 1894, art. 5, §§ 3, 4.

[d] See People ex rel. Killeen v. Angle (1888), 109 N. Y. 564. Also People ex rel. Travis v. Durston (1888) 3 N. Y. Supp. 522.

[8] Chapter 79, passed March 6, authorized a debt of $9,000,000 for canal improvement, and provided for submitting the act to the people at the November election in 1895. The act was approved and canal improvement begun under it, but the amount appropriated was found to be insufficient.

See L. 1903, chapter 147, providing for an expenditure of $101,000,000 for canal improvement.

[9] No general education law was passed at this session, but several statutes were enacted either amending existing laws or including new provisions relative to educational affairs. See note 25.

in considering how the Legislature shall obey this mandate.[10]

8. The prohibition against selling the Onondaga salt springs has been abrogated. These springs are a constant source of useless and, therefore, unjustifiable expense to the State, and the disposition to be made of them ought to be promptly considered and determined.[11]

9. Extensive improvements in the agricultural regions of the State are understood to be waiting only for the Legislature to give effect to the new provision in section 7 of article 1, which provides for the passage of general drainage laws, to which I make reference elsewhere.[12]

10. The new provisions contained in sections 11 to 15 of article 8 require the Legislature to provide for a general system of visitation and inspection of charitable institutions, insane asylums and prisons, and for the regulation of public aid to charitable and correctional institutions, wholly or partly under private control. These requirements are aimed at grave existing abuses and should be promptly complied with.[13]

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[10] No general act was passed, but by chapter 473, passed April 27, the prison law of 1889, chapter 382, was amended by including additional provisions relative to convict labor.

The Legislature at this session, 1895, proposed a constitutional amendment materially modifying the prison labor provision, section 29, as included in the Constitution of 1894, but it was not submitted to the people.

[11] The Senate appointed a special committee to consider the subject of the disposition of the salt springs, which committee was required to report on or before the 19th of March, 1895, but no statute was passed relating to this subject.

In 1897, by chapter 261, the commissioners of the land office were authorized to dispose of lands on the Onondaga salt springs reservation.

[12] Chapter 384, passed April 23, 1895, relating to the drainage of agricultural lands, was intended to provide procedure for applying the new constitutional provision.

In re Tuthill (1900), 163 N. Y. 133, this act was held unconstitutional so far as it authorized the assessment of any part of the expense upon owners of land adjoining the land sought to be drained.

[13] The State Board of Charities was reorganized by chapter 771, approved May 27, which revised and consolidated existing statutes on the same subject. See also the State Charities Law of 1896, chapter 546.

REFORM LEGISLATION FOR NEW YORK CITY.

A Power of Removal bill, as a means of securing better government in cities, is demanded by a large part of the people. This requirement has been undoubtedly accentuated, if not originated, by the exposure of wholesale corrupt practices and administrative abuses in the municipal departments of the city of New York. These have been brought to the public notice in so conspicuous a manner that no characterization from me is needed, to deepen the impression they have wrought, in the public mind, that prompt and radical measures for their correction are imperative. And this sentiment exists not merely in the metropolis, but among the people of the State who have, by an expression most unusual in its volume, evinced their reprobation of these systematized official crimes, and have brought into the places of authority men especially selected for the work of eradicating the evils so overwhelmingly condemned by the power of the suffrage at the recent election. The Legislature, no doubt, recognize that one of its most solemn and imperative duties will be to cooperate with the representatives of reform sentiment and action in New York city and conform its legislative acts to the desires of the people at the earliest possible day. A Power of Removal bill for the city of New York, placing

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Another act passed in 1895, chapter 754, approved May 27, was intended to apply and put into operation the provisions of the Constitution, article 8, section 14, relative to payments by municipal corporations for the support of inmates of charitable institutions. The act regulated payments by counties, cities, towns and villages, and prescribed the duties of local authorities relative thereto. Such payments were to be made pursuant to rules established by the State Board of Charities.

A State Commission of Prisons was established by chapter 1026, approved June 15, to be composed of eight commissioners, one from each judicial district. The act prescribed the powers and duties of the commission.

No general act was passed relative to the organization and powers of the lunacy commission, but several statutes were enacted relating to particular aspects of the subject. For a revision of the law on this subject, see L. 1896, chapter 545.

in the hands of the mayor absolute and unquestionable authority to remove any of the appointive officers of the city government and to appoint their successors, is an immediate requirement at your hands. The special committee of the Senate, known as the Lexow Committee, which has been investigating the city departments for some months past, will doubtless submit its report to the Legislature early in the present month, and is expected also to recommend various measures or plans for needed reform. In the meantime, the duty is incumbent on you, under the expressed will of the people of the metropolis, to give to the mayor of New York the requisite power of removal and appointment, without waiting for the full details of the reform plan. I deem it proper, however, to counsel wisdom and calm discretion when dealing with this question, so that the dominant and responsible political party may be credited with a lofty purpose and not charged with a lust for what are regarded as "the spoils of victory."[14]

THE GREATER NEW YORK.

Last year the Legislature enacted a law submitting to the voters of New York, Brooklyn and adjacent cities the question of bringing all their population into one great municipality. The people of the cities involved in the proposition have declared by popular vote in favor of this consolidation, and it now becomes the duty of the Legislature to take such further steps as are necessary to carry their wishes into effect. The framing of a charter for a city of more than three millions of people is a comprehensive, delicate and important task; one that should not be entered upon without careful and serious preparation. It is doubtful whether the Legislature, in view of the many duties that will press upon it during the coming season, will be able to fully perform this labor. I suggest, therefore, that a commission be at once created, to be composed of the most capable citizens of the various localities interested, and to be charged with the power and the duty of framing a charter and reporting the same to the present Legislature, if such a plan can be drafted and submitted before the session closes.[15]

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[14] The power of removal was conferred on the mayor of the city of New York by chapter 11, passed February 11, which provided that "at any time within six months after the commencement of his term of office, the mayor of the city of New York, elected for a full term, may at pleasure, remove from office any public officer now or hereafter holding office by appointment from the mayor of said city, except judicial officers, for whose removal other provision is made by the Constitution;" and that "after the expiration of said period of six months any such public officer may be removed from office in the manner heretofore provided by law." For Governor Flower's veto of a power of removal bill in 1894, see *ante*, p. 419.

THE ELECTION LAWS.

One of the most important subjects which you will be called upon to consider is that of improving our election laws. The people are vitally interested in honest elections. There is an imperative public demand that the ballot-box shall be made to register, so far as possible, the free and uncorrupted will of the legal voters. This State was the first that attempted a thorough reformation of the elective system, but owing to differences between the legislative and executive branches of the government upon the subject, nothing was accomplished until 1890, when the present ballot law was placed upon the statute books. That law is generally conceded to be very inadequate, and the opinion is almost universal that it should be radically changed. While it has, to a certain extent, secured secrecy of the ballot it has been the source of evils that have almost counterbalanced its good results. The experience of several years has made it very clear that the system of providing a separate ballot for each group of nominations is cumbersome and unsatisfactory. The "blanket" ballot, so-called, which has been successfully used in many States of the Union, should, in my judgment, be adopted in this State without further delay. Without intending to dictate as to the particular form, I think it proper to suggest that it would be well to provide for party symbols and for printing the names of each group of candidates in parallel columns, each under its appropriate symbol and party or political designation. That was the form of ballot provided for in the bill which passed the Legislature at the last session and it seems to meet with general approval. The bill was vetoed, not because of its form, however, but because it did not permit the use of the blanket paster.* This kind of ballot has been used for years in a number of the States with gratifying results.

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[15] The Governor's recommendation was embodied in an act passed in 1896, chapter 488, which created a commission composed of the president of the commission appointed under chapter 311 of the Laws of 1890, the mayors respectively of the city of New York, Brooklyn and Long Island City, the State Engineer and Surveyor, the Attorney-General and nine other persons to be appointed by the Governor and Senate. The commission was charged with the duty of preparing a charter for Greater New York, which was to be submitted to the Legislature on or before the first day of February, 1897. The charter was submitted accordingly, passed, and became chapter 378 of the Laws of 1897.

It is my belief that the use of the "blanket-paster" ballot should be at once prohibited, for through its instrumentality the purpose of the law has been to a large extent defeated. It can not be claimed that the "paster" is necessary, because it has never been used in those other States which have adopted the Australian system of voting. There is a question whether the use of "pasters" containing the names of individual candidates, whose names are not printed in the official ballot, is not both proper and necessary so as to preserve the constitutional rights of illiterate voters. It is not necessary for me to suggest that nothing should be left undone that will secure to every citizen his right of suffrage.[16] The State of New York is

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**Ante*, p. 477.

[16] Chapter 810, approved May 29, 1895, contained numerous amendments to the existing Election Law, including provisions for party emblems and for a blanket ballot. Provision was also made for space on the ballot, in which a voter might write the name of any candidate for whom he might wish to vote, although not regularly nominated.

A revised Election Law was passed in 1896, chapter 909.

also entitled to the credit of having taken the lead in placing upon the statute books a strong law against corrupt practices at election. That law, which is a part of the State's Penal Code, has been strengthened from time to time, so that it is now one of the best statutes of the kind in the country. But there is one particular in which this law seems to be defective. While it requires every candidate for public office to file a sworn statement of his disbursements of money for election expenses, it omits to require similar statements from political committees. This I regard as a very serious defect, and one that should be remedied without delay.[17]

The revised Constitution, article 2, section 1, very wisely provides that, to be entitled to vote, a person must have been a citizen for ninety days before election. As a result of this provision it will not hereafter be necessary to set apart a fifth day for registration in the cities of the State, and I recommend that the election law be amended in conformity with this modification.

As amended the Constitution makes the duty of the Legislature very plain in respect to the registration of voters. By section 4, article 2, it is provided that in cities and villages having 5,000 inhabitants or more, voters shall be registered upon personal application only. This makes it necessary to extend the personal registration requirements, which now apply only to cities, to all villages which contain 5,000 or more. The section referred to exempts citizens in cities or villages of less than 5,000 inhabitants from such personal registration.[18]

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[17] As to statements by political committees, see L. 1906, chapter 502, also 1907, chap. 596.

[18] Chapter 810, amended section 31 of the Election Law, by extending the provisions for personal registration to villages containing 5,000 or more inhabitants.

Another important amendment bearing upon the subject of elections is embodied in section 6 of the same article which requires equal representation of the two great political parties in all boards of registration and election. In this respect, however, the Legislature of 1894 anticipated the action of the Convention by passing an act providing for bi-partisan election boards.

THE STATE CANALS.

The improvement and administration of the State canals should command most careful and enlightened attention at the present session. Since the inception of that great enterprise, the Erie canal, more than three quarters of a century ago, the people of this State have continually recognized the impetus it has given to the general progress and commercial prosperity of the commonwealth. It has been a prime factor in the establishment and maintenance of the commercial eminence of the port of New York. When the canal was constructed and for many years afterward, there were no railways to compete with this great waterway, and the natural products of practically the whole of the then limited new country, to the north and west of this State, found by this channel their way to the markets of the world. The canal has now for its competitors five of the most perfect trunk-line systems of railway in the world, administered and operated by master-minds and backed by enormous capital, the security of which lies in the maintenance of a successful rivalry. And while the railways have made steady and rapid progress on the line of improved methods and inventions, the system of operating the canal is scarcely changed. As a consequence, largely, of these diverse conditions the tonnage of the canal has shown a continuous decrease during the last few years, and for the year just closed the tonnage was the smallest since 1859. In the past season the railways have carried 49.45 per cent. of the total amount of grain delivered at the port of New York, and the canals 50.1 per cent. For the eleven months to November thirtieth, Baltimore exported about 15,000,000 bushels, or nearly one-half as much grain as New York, while Baltimore, Philadelphia, Boston and Montreal, together, exported 36,155,396 bushels, of which a large amount could have been diverted to New York for export if the canals could have furnished the necessary accommodation at a low rate of cost. Assuming that on terminal charges, freight and handling, five cents is earned from every bushel of grain that passes through this State, $1,807,770 were by this diversion lost to the people employed in this State upon a product in transit, which was neither raised nor consumed within our borders. The question of deepening the canals, the Erie to nine feet and the Champlain to seven feet, will come before you this session and will, I trust, receive the serious consideration which the great importance of the subject deserves. While it is true that the railways of our own State are active rivals of the canal, statistics show that these rail lines have not carried all of the freight not borne by the canals, but that other railways, States and ports have been growing opulent and important in handling the rich burdens which might have been, in great part, controlled for our own commercial advantage. The Dominion of Canada, too, has expended, and is still expending, vast sums in governmental aid to the canals of that country, and is also an active competitor against our canal system as well as against our railways. It is unnecessary to submit here the statistics which go to show the danger that threatens the commerce of our State. These details will come before you in the official annual report of the Superintendent of Public Works. It is my duty, however, to emphasize the lesson which these figures teach, and to urge upon you the need of prompt and statesmanlike action in providing for the improvement of the canals and their administration upon a sound business basis, unmixed with political or other subordinate purposes and policies.[e]

AGRICULTURAL DRAINAGE.

There is one provision of the revised Constitution in which many farmers of the State are greatly interested. Under the old Constitution a doubt existed as to the power of the Legislature to provide a method by which owners of agricultural lands could construct necessary ditches, for the drainage of their own lands across the lands of others. As a consequence those who owned low or swamp lands, or lands upon which in certain seasons the surface waters settled, have been compelled, in many instances, to suffer great hardships, because they could not conduct the water across a neighbor's premises, even by paying a just compensation for the privilege. This right is given by section 7, article 1 of the new Constitution, and I recommend that the Legislature pass an act, at an early day, that will provide a speedy and economical means of relief for those who are interested in the matter.[f]

ROADS AND HIGHWAYS.

The subject of good roads is one which merits thoughtful attention at your hands, for it is year by year becoming of larger importance in the public eye. Nearly all of the various State Legislatures which will be in session during this year will be engaged in efforts to secure practical results, in the direction of selecting approved methods, though on a variety of lines or theories. The information obtained by the Office of Road Inquiry, a bureau of the Federal Department of Agriculture, and which has had correspondence on the subject with all of the State governments, is that wide divergence of opinion exists on the whole question, and it is feared that it may, in consequence, be difficult to secure sound practical results. Not less than half a dozen plans are in effect or contemplation, a fact that is undoubtedly regretable, and it would seem desirable that the Empire State should, with its characteristic progressiveness, be a leader in the establishment of an acceptable system of road improvement, extension and maintenance. The advocates of road improvement in several States are urging the establishment of a temporary joint commission, by the respective Legislatures, such commission to include, besides members of both legislative houses, representatives of road improvement organizations. If this plan is adopted by a number of the State Legislatures the Federal Office of Road Inquiry proposes to act as a medium of communication between them, as well as a source of information. I think that the Legislature might by a committee, put itself into communication with the National and State authorities on the subject and acquire all available information as to plans and experiments, with a view to obtaining good roads, constructed on wise and economical principles, throughout the State.[19]

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[e] See note 8.

[f] See note 12.

CONVICT LABOR.

The constitutional amendment, which takes effect two years hence, forbidding the State from employing convicts at the State and county prisons, jails and reformatories in any industrial arts or useful occupations the products of which may come into competition with the work or products of the people, imposes a grave duty upon the law-making power. No condition is so subversive of both moral and physical discipline, especially among bodies of men under punitive restraint, as that of idleness, and the restriction now imposed upon their occupation will render it no easy task to provide employment within the law, and to make the convicts yield an appreciable proportion of the cost of their maintenance. If their services can be legally applied to the building and improvement of roads and highways, the manufacture of clothing and other articles, the raising of food supplies, on State farms, and other like pursuits, all for use in State institutions, the solution of the problem may be less difficult than it now appears to be. The character of the laws framed to accomplish this end will be closely scrutinized by the people, and should be such as to relieve the industrial workers and their employers from the competition of prison labor, against which they have for years past so earnestly protested.[g]

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[19] Chapter 375, passed April 23, authorized the board of supervisors of any county to adopt the county road system, and provide for the improvement of certain highways, to be designated as county roads. For several references relating to good roads see 1890, *ante* vol. 8, p. 1041.

THE CIVIL SERVICE LAWS.

The Civil Service Laws of the State have been powerfully reinforced by the adoption of an amendment to the organic law,[h] recognizing this great reform principle and extending its operation, and the law-making authority is required to give effect to these provisions. It may be well considered whether the prudent and consistent extension and perfection of the system will not exert a most beneficial effect, in averting and rendering impossible many of the corrupt and otherwise reprehensible practices which have of late scandalized so many branches of the public service. Under this constitutional recognition the Civil Service Laws will become applicable to municipal and county officials and employes, as well as to State employes. The same section also gives recognition to the principle that honorably discharged soldiers and sailors of the civil war shall be entitled to preference in appointment and promotion from the eligible lists, without reference to their standing on any such list from which the appointment or promotion may be made.[20]

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[g] See note 10.

[h] Const. 1894, art. 5, § 9.

THE BANK DEPARTMENT.

The great increase in the resources of the various institutions supervised by the Bank Department during the last decade entitles it to special mention. Ten years ago the total resources of these institutions were a little over $845,000,000. To-day, by reason of the increase in the number and business of banks of deposit, savings banks and trust companies, together with the building and loan associations and foreign mortgage companies, which were placed under the supervision of the department in 1890, there appears to be an increase in resources of about $580,000,000, making a total of $1,425,000,000.

In the revision and reënactment of the Banking Laws in 1892, many valuable amendments were made; but there are several amendments which might still be made with the effect of further improving the law. For instance, as the law now reads, a bank may commence business by paying in fifty per cent. of its capital stock — the balance to be paid in in installments of ten per cent. at the end of each succeeding month, until it is fully paid. Experience has shown that the remaining portion of the capital stock is not paid in as provided by law, and more or less confusion arises over the payment of the remaining half. I am of the opinion that the whole capital stock should be actually paid up before the new bank is authorized to commence business.[21] A number of banking institutions have been forced into bankruptcy for one or all of the following causes, to-wit: The loose method by which officers and employés of a bank may borrow money from the institution, upon their own motion, to such amount as they may desire; the loaning of funds by a bank upon the security of its own capital stock; and the tendency of so many banks to pay out their profits in dividends, rather than to create a reasonable surplus fund with which to meet inevitable losses.

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[20] Chapter 344, passed April 18, extended the provisions of existing laws relative to veterans by declaring that a competitive examination should not be deemed practicable where the compensation did not exceed $4 per day, but the examination should be such as was calculated only to ascertain the merit and fitness of the applicant for the position for which he applied, and if found fitted to fill such position the applicant should be placed on the eligible list, and he should be certified therefrom. Provision was also made for the status of veterans in relation to positions where the compensation exceeded $4 a day, and in these cases their names were to be placed on eligible lists without regard to their standing, and they were to be preferred for appointment above others who might have been graded higher, provided the fitness of such veterans should be ascertained as required by the act.

This act was held unconstitutional, In re Keymer, 148 N. Y. 219 (1896.)

I would recommend that the Banking Law be so amended that the officers having the physical control of the funds of a bank should not be allowed to loan money to themselves, but that their applications for loans should be submitted to the board of directors, and the consent of a majority of such board should be required precisely as general customoers procure loans.[22] Also that banks should be required to accumulate a reasonable surplus fund or go out of business, and that they should be prohibited from loaning money upon the security of their own capital stock.[23]

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[21] Chapter 929, approved June 5, 1895, amended section 49 of the banking law, by requiring that all the capital stock of every bank shall be paid in before it shall commence business.

[22] The Governor's suggestion as to loans to bank officers was included in chapter 929, amending section 25 of the banking law, under which officers, directors, clerks and agents of banks were prohibited from borrowing bank funds, except upon the consent of a majority of the board of directors or trustees.

[23] Chapter 929, approved June 5, amending section 25 of the banking law. required each bank to accumulate a surplus by adding thereto at the end of each dividend period one-tenth of the net earnings for that period, until the surplus should equal twenty per cent. of the capital.

The same act prohibited a bank from making a loan or discount on its own capital stock.

SAVINGS BANKS.

There are not a few instances in this State where savings banks and banks of discount are located in the same room, and are controlled by the same management; at one desk the savings bank officers receive deposits; at another desk close by the discount bank receives and pays out moneys. The board of trustees of the one institution is composed mainly, if not wholly, of the directors of the other, so that when trouble arises to the one, the other is also, invariably, involved. At least two instances have occurred within the last two years where discount banks have suspended, and savings banks doing business in the same room have been forced into failure for the reason that their entire available funds were "tied up" in the suspended bank. This condition of affairs demands prompt rectification. Each banking institution should be independent of the other, and the available funds of savings banks should be deposited in such a manner as to be beyond the perils which may involve the discount banks.[24]

PUBLIC INSTRUCTION.

It is a matter for congratulation that the leadership of New York State in educational affairs is everywhere recognized. Her present system of supervision and examinations is uplifting the calling of the teacher, giving more assurance of employment to those well qualified, and insuring to the public a more adequate return for the liberal expenditure that has always honorably distinguished the Empire

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[24] Chapter 929, approved June 5, amending section 25, of the banking law, contained the following provision:

"No savings bank hereafter incorporated shall do business or be located in the same room or in any room communicating with any bank or national association."

The same act, amending section 107 of the banking law, regulated the extent to which trustees of savings banks might also be trustees of other banks, and contained provisions separating the management of banks then being conducted partly as saving banks and partly as banks of discount.

State. Buildings, equipment, library and apparatus do not make a school. It is upon the fitness of the teacher that our educational system depends for its results. Toward this end our State is making unexampled progress. Our normal schools, teachers' institutes and teachers' training classes are growing in efficiency and are disseminating a professional spirit which reaches the smallest country schools. Corresponding progress appears along the distinctly different line of higher education. Particularly by concentrating in a responsible body the supervision and control of higher institutions of learning and professional preparation, the public interests are more adequately protected. It is recommended that the Legislature provide liberally but with economic discretion for the carrying on of the system of public education.[25]

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[25] Besides making the usual and some special appropriations for educational purposes, and amending several administrative statutes, the Legislature enacted the following:

Chapter 222, passed April 3, providing for the display of the United States flag on school houses during school hours.

Chapter 362, passed April 19, "to provide that additional facilities for free instruction in natural history, geography and kindred subjects, by means of pictorial representation and lectures, may be furnished to the free common schools of each city and village of the State that is, or may have a superintendent of free common schools."

Chapter 767, approved May 27, authorizing the inhabitants of each town to establish therein a teacher's pension fund for the benefit of persons who had taught continuously in the schools of such town for at least twenty-five years, and each teacher was to be entitled to receive annually, while remaining a resident of the town, a sum equal to one-half of the compensation received during the last year of service as such teacher.

Chapter 1031, approved June 15, to encourage and promote the professional training of teachers, and which authorized cities, except New York, and villages employing a superintendent of schools, to provide for the professional instruction of teachers, such instruction to be under the supervision of the State superintendent of public instruction. The act authorized the State superintendent to appropriate from the free school fund $100,000 to be apportioned to the cities and villages maintaining such instruction at the rate of $1 per week for each pupil. The same act contained the provision that "after January 1, 1897, no person shall be employed or licensed to teach in the primary and grammar schools of any city authorized by

THE STATE INSURANCE DEPARTMENT.

The business of insurance has reached such vast proportions within this State and the interests involved in its proper conduct are so vital to the welfare of our citizens, that the placing of it under the controlling supervision of the State, as was done in 1859, was a matter of public policy, the propriety of which can not be well questioned at this time. It is supervised under the authority of laws that I think still need considerable amendment and revision. In 1892 a revision of these laws was undertaken and in a manner accomplished, but the statutes relating to the supervision of the business of insurance still need radical amendment in many respects, and it seems proper to suggest such legislation as may result in the enactment of laws governing the regulation by the State of this business, the intelligent supervision of which is so essential to the best interests of the people of the State.

The revision of 1892 was accomplished through the medium of a commission appointed to revise the Insurance Law, as well as other laws. The scheme of revision contemplated more particularly the codification and rearrangement of such laws relating to insurance as existed at the time. The result has been that the law is practically the reënactment of old statutes, which under changed conditions, brought about by the development and progress of

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law to employ a superintendent of schools, who has not had successful experience in teaching for at least three years, or in lieu thereof, has not completed a three years' course in, and graduated from a high school or academy having a course of study of not less than three years, approved by the State superintendent of public instruction, or from some institution of learning of equal or higher rank, approved by the same authority, and who, subsequently to such graduation, has not graduated from a school or class for the professional training of teachers, having a course of study of not less than 38 weeks, approved by the State Superintendent of Public Instruction." The act authorized local school authorities to require additional examinations, and to accept normal school diplomas or State certificates. For Governor Flower's veto of a similar bill in 1894, see *ante*, p. 482.

this business, are, in numerous instances, unfitted to deal intelligently or effectively with this interest as it should be dealt with.[26]

THE DEPENDENT INSANE.

The State Commission in Lunacy reports that while the reduction in expenses for maintenance of the State hospitals for the insane, for the first year under the new system, amounted to $275,000, exclusive of the expenditure of surplus funds, as compared with the last year's expenditures under the old system, there will be a deficiency of income amounting to $219,000. This arises from the insufficiency of the appropriation, and you will be called upon to provide for this shortage in addition to the usual tax for maintenance. For the next fiscal year, the gross sum to be raised, therefore, will be about $1,800,000, exclusive of the amount necessary to provide for additional building, repairs and improvements. Examination shows that for the past eight years the appropriations for buildings, repairs and improvements alone have averaged more than $1,000,000 per year. Careful inquiry into the subject leads to the conclusion that with a more judicious plan of both appropriation and expenditure, one-half of this annual amount would have been ample for the purpose. But so long as the practice exists of making separate appropriations for each institution, without consideration of the needs of the State as a whole, such excessive expenditures are likely to result. It is, therefore, suggested that in lieu of this unbusinesslike method, the annual tax for maintenance be increased to a sum sufficient to provide for the needs of all the State hospitals, including additional accommodations for the annual increase in the number of inmates as well as for repairs and improvements, and that this gross appropriation be apportioned and expended among the various hospitals under the law controlling the ordinary expenditures for care and support. These laws have yielded good results by reducing materially the cost of caring for the dependent insane and at the same time insuring to them every necessary comfort and attention. The large appropriations of the past have enabled the Commissioners to extend the building accommodations, so that, including those now in course of erection, no additional buildings will be required for some years to come, and the immediate needs will only require the furnishing of about three hundred beds to accommodate the estimated increase of inmates. This will involve a comparatively small outlay, for if the buildings are erected on the present State hospital grounds (as contemplated by the act of 1890) the cost should not exceed $550 *per capita,* the sum prescribed in the act referred to, including furniture and fixtures. This course must be followed if economy in the care of the insane is to be observed. The expenditure for this purpose is already one of the largest items in the State budget, and if the counties of New York and Kings adopt the course they are expected to, of asking to be relieved of the care of their insane, the annual appropriation for the maintenance of the indigent insane will exceed in amount the appropriation for any other single department of the State government. It will approximate $3,500,000 to $4,000,000. It is, of course, conceded that the two counties last named have the perfect right to turn over their insane to the care of the State, and the dictates of humanity and justice favor the transfer.[1] The total number of insane in the various institutions of the State is nearly 20,000, of whom about 9,000 are in the asylums of New York and Kings counties. During the past year the last of the insane remaining in the poorhouses of the various counties and towns have been transferred to the State hospitals, under the operation of the State-care-of-the-insane act.[27]

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[26] Several statutes were passed relating to details of insurance administration, including also provisions concerning title and guaranty companies, and town and county co-operative insurance companies.

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[1] See note 1.

MAINTENANCE OF STATE CHARITIES.

The new and enlarged duties imposed upon the State Board of Charities by the fourteenth section of the eighth article of the revised Constitution calls, in my judgment, for immediate action on the part of the Legislature, to enable that board properly to discharge those duties. Payments by the several civil divisions of the State to charitable, eleemosynary, correctional and reformatory institutions, either wholly or partly under private control, can not hereafter be made for any inmate of any such institution who is not received and retained therein pursuant to rules established by the State Board of Charities. The evident object of this provision was to secure, through the instrumentality of the board, the effectual prevention of any payments for sectarian objects. To accomplish this purpose the existing machinery of the State Board of Charities is wholly inadequate, and a suitable act should be passed making it the duty of the board to appoint inspectors of these institutions, regulating the manner of making such payments as prescribed by the Constitution and containing such other provisions as, in your judgment, shall tend to secure the most economical and intelligent care of such inmates and carry this new and important provision of the Constitution into effectual operation.[J]

STATE FORESTRY.

The preservation of the forest domain of the State is a subject of deep concern to the whole community, involving as it does the preservation of the natural sources of water supply. Peculiar significance was given to this question in the recent Constitutional Convention, by the fact that the amendment providing for the keeping of the forest reservations forever as wild forest lands was urged by important commercial interests, and was the only amendment that was adopted without dissent.[k] Due attention should be given to the necessary legislation to carry the will of the people into effect. The carrying out of these provisions will also tend to the preservation of game birds and animals on the public lands, a subject worthy of legislative attention, especially with respect to the advisability of prohibiting the use of dogs in the hunting of deer. The decimation of herds does not result from killing by the dogs, but the hunted animals almost invariably take refuge in the numerous lakes, ponds and brooks, where they are so helpless that they fall victims to other hunters who lie in wait for easy captures.[28]

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[27] Chapter 693, passed May 15, levied a tax of one mill on a dollar for purposes connected with the care of the insane, and appropriated $4,200,000 for the same purpose.

[J] See note 13.

THE STATE TROOPS.

The proper maintenance of the military and naval forces of the State is a matter which it is necessary for me to impress upon you with more than ordinary directness. The National Guard of New York is conceded to be second to none, and it must not be allowed to deteriorate. There is one respect in which the State troops, both military and naval, and the officers commanding them, begin to seriously feel their inefficiency, and that is, the inferiority of their weapons. The State authorities will, within a year at the furthest, have to give serious and business like attention to the matter of supplying the Guard with arms of modern pattern, adapted to the requirements of the plan of warfare which their new tactical manœuvres contemplate and were devised to meet.[29]

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[k] Const. 1894, art. 7, § 7.

[28] The Legislature at this session adopted a forest preserve amendment as a substitute for the provision on the same subject contained in the new Constitution. The new amendment proposed to authorize the Legislature to lease for camp or cottage purposes parcels of land of not more than five acres, but not more than one parcel could be leased to the same person. The same amendment proposed to authorize the exchange of land owned by the State outside the forest preserve for land not owned by the State in the preserve. The amendment was again adopted by the Legislature of 1896, and submitted to the people at the November election in that year, but it was not approved.

Chapter 395, passed April 25, 1895, revised and consolidated existing laws on the subjects of fish and game, the forest preserve and the Adirondack park.

With these suggestions and recommendations, I commit to your hands the laborious duty of framing and enacting the legislation needed by the State at this session. I doubt not that candor, honesty, discretion and industry will govern your deliberations, and that the result will win the approval of the people.

Very respectfully,
LEVI P. MORTON,
Governor.

SPECIAL MESSAGES.

January 10. To the Assembly: Transmitting the report of the State Board of Pharmacy.

January 14. To the Assembly: Transmitting the annual report of the Adjutant-General.

January 25. To the Assembly: Transmitting the annual report of the Civil Service Commission, and the annual report of the receipts and expenditures of the Cooper Union.

February 12. To the Assembly: Transmitting the report of pardons, reprieves and commutations for the year 1894.

February 26. To the Assembly: Transmitting the annual report of the Director of the Agricultural Experiment Station at Cornell University.

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[29] See *post*, p. 634, as to arms for the National Guard.

February 28. To the Assembly:

Veto of a bill to provide for a state armory at Ogdensburg.[30]

"This armory is designed for the use of the Fortieth Separate Company, located in the city of Ogdensburg. The present company was organized March 1, 1894. It has for many years been the policy of the State not to construct armories for the use of separate companies until the usefulness of such organizations has been demonstrated by a longer period of existence than this company has enjoyed, and this of itself is a sufficient reason why this armory should not be built at this time. The Adjutant-General reports that this company is showing an excellent degree of discipline and efficiency, and that it is one of the best in the State taking into consideration its brief existence, and without in any way reflecting upon the organization, I am disposed to approve the policy above indicated.

I desire also in this connection to call the attention of the Legislature to the large number of bills now pending asking for appropriations for the completion or repair of armories and for the erection of new buildings.

Nearly all of these bills have been favorably reported by the committees of the two houses to which they have been referred, and many of them have been passed by at least one branch of the Legislature.

Bills are now pending providing for repairs of various armories and making appropriations therefor as follows:

At Olean	$7,000
At Amsterdam	10,000
At Niagara	11,500
At Glens Falls	10,000
At Poughkeepsie	7,250

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[30] An armory at Ogdensburg was provided for the next year, 1896, by chapter 580, which appropriated $40,000 for this purpose.

At Albany	$16,000
At Brooklyn	75,000
Total	$136,750

Several of these estimated requirements are not strictly for repairs, but are rather what appear to be appropriations necessary for the completion of armories, the erection of which has been provided for by recent legislation, but the original appropriations for which seem to have been insufficient.

I cannot refrain from expressing disapproval of this method of constructing public buildings. The system which permits the State to enter upon the erection of a building, the plans, details and specifications for which are so faulty and deficient that before the building can be occupied additional appropriations must be provided for its completion, certainly leads to extravagance and is not in accord with good business methods. The plans and specifications for all buildings of this character should be carefully prepared and sufficiently in detail to insure the erection and completion of the building, furnished and equipped, and with the amount appropriated therefor. In no other way can the State exercise intelligent supervision over its expenditures or be readily aware of the amounts it is investing in its various institutions. If necessary to accomplish that end, each law appropriating money for the erection of buildings of this class should contain a provision that no part of the appropriation therein made shall be available until the officer responsible for that particular department and its administration shall file in the office of the Comptroller a copy of the plans and specifications for the erection of the building, together with his certificate that the same can be constructed, ready for occupancy in all its particulars, within the amount of these specific appropriations.

There are also pending in the Legislature bills providing for the erection of new armories as follows:

At Schenectady	$70,000
At Mohawk	25,000
At Whitehall	32,000
At Hudson	70,000
At Walton	15,000
At Rochester	100,000
At Buffalo	400,000
At Brooklyn	350,000
Total	$1,062,000

These, together with the bill herewith returned, aggregate over $1,100,000, and with those making provisions for the repairs of armories, aggregate over one and one-quarter million dollars. Certainly the best interests of the National Guard cannot be conserved by such excessive appropriations in any one year. I am not unmindful of the great service which the National Guard is rendering to the State. It has often proved its efficiency, and its services, rendered invariably at great personal sacrifice on the part of its members, have been of inestimable value to the prosperity and business interests of the State. Nor do I overlook the fact that under the present drill regulations, embodying the so-called 'extended order' evolutions, a greater area is needed for drill manœuvres than was formerly required. It is as well, however, to remember that even now a military board at Washington is revising and modifying these new drill regulations, and that a newer system of drill may be promulgated which will not require so great a space for evolutions. I am reasonably sure that no discreet friend of the Guard would advocate large increases of appropriations for that department in these times of business depression.

What has been said with reference to the pending appropriations for repairing and erecting armories applies with equal force to the bills now before the Legislature relating to the Normal School and State hospital buildings. The demands upon the treasury for Normal School buildings already presented to your body aggregate over $442,000, while the State is committed by the legislation of 1893 to the erection of still another Normal School building at Jamaica, the appropriation for which was made in that year, and the site for which has been recently approved by the proper State officers. This will involve the expenditure of upwards of $100,000 in addition to the amount above stated; while I am also advised that the estimates for State hospitals already presented to your body aggregate $1,795,000.

I am confident that the appropriations asked for on behalf of the Normal schools and State hospitals are largely in excess of the just and proper necessities of these institutions.

The great majority of the taxpayers of the State feel the burden of taxation more grievous to bear at this time than ever before in their business experience. The condition of the times calls for more than ordinary care and economy. No appropriations which can be deferred without injury to the interests of the State should be made in a season of such commercial and monetary depression. I cannot too strongly urge the necessity of the strictest economy. I sincerely hope that the record of the Legislature, so promising and hopeful in other respects, will not be marred by what appears to be a tendency toward extravagance in the matter of appropriations, for it will be largely measured by this standard."

The bill was not passed over the veto.

March 4. To the Assembly: Transmitting the annual report of the Commissioners of Quarantine, also the report and recommendations of the board for the establishment of State insane asylum districts and other purposes on the petition of local authorities of Kings county asking the State to assume control and accept the transfer from Kings County of the care of the indigent insane hitherto in charge of said county authorities, and for the leasing and purchase by the State of the buildings and lands used for the occupancy of said dependent insane persons. [See note 1.]

March 7. To the Assembly:

Veto of a bill to provide for an armory at Whitehall.[31]

"On February 28 last I returned without my approval Assembly bill introductory number 151 providing for the erection of an armory in the city of Ogdensburg.

This bill is of similar character and is also returned without approval for the general reasons set forth in my message accompanying the Ogdensburg bill."

The bill was not passed over the veto.

March 7. To the Assembly: Transmitting the annual report of the State Board of Health.

March 11. To the Assembly: Transmitting the annual report of the Board of Commissioners of Pilots.

March 11. To the Assembly: Transmitting the report of the State Geologist and Paleontologist.

March 15. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *March* 15, 1895.

"I have the honor to call your attention to the correspondence from the Honorable Secretary of War, a copy of which is transmitted herewith, relating to the dedication of the Chickamauga and Chattanooga National Military Park on the 19th and 20th of September next, on the scene of those two memorable engagements. Under an act of Congress approved December 15, 1894, the Secretary of War is charged with the direction of the ceremonies, and is instructed to invite the President, the Congress, the Supreme Court and other federal officers, the General of the Army, the Admiral of the Navy, the Governors of the several States and their staffs, with such further representation from the States as the Legislatures may think proper to authorize, and the survivors of the several armies engaged in the battles. For the defrayal of the attendant expense, the sum of $20,000 was appropriated, but no part of this is applicable to the payment of expenses of State representatives.

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[31] The Legislature of 1898, by chapter 566, appropriated $42,000 for an armory at Whitehall.

It appears to be fitting and proper that the State of New York should be adequately represented and take official part on so impressive an occasion. In the battles of the Chattanooga campaign there were engaged fourteen regiments of infantry and two batteries of artillery from this State, a total of about six thousand men, and the State is honorably represented by its heroic dead in the National Cemetery at Chattanooga. The engagements include the fights at Wauhatchie, Lookout Valley, Lookout Mountain, Missionary Ridge, Peavine Creek and Ringgold Gap.

I respectfully submit the subject to your honorable body for such legislation as you may deem necessary to provide a proper official participation in the dedication ceremonies and the appropriation of a reasonable sum to meet the necessary expense of such representation.[32]

LEVI P. MORTON."

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[32] The Legislature appointed a joint committee of the President of the Senate and five Senators and the Speaker and nine other members of the Assembly to represent the State at the dedication of the Chickamauga and Chattanooga National Military Park on the 19th and 20th of September, 1895, in accordance with the invitation received from the Secretary of War.

The following is the communication from the Secretary of War referred to in the message:

WAR DEPARTMENT, OFFICE OF THE SECRETARY,
WASHINGTON, *January* 29, 1895.

To the Governor of the State of New York, Albany, New York:

SIR.—Under an Act of Congress, approved December 15, 1894, it is provided that the dedication of the Chickamauga and Chattanooga National Military Park shall take place at Chickamauga, Georgia, and Chattanooga, Tennessee, the 19th and 20th of September next, and that the Secretary of War shall invite the Governors of States and their staffs, and the survivors of the several armies engaged in the battles of Chickamauga and Chattanooga to participate in the inauguration ceremonies.

I have, therefore, the honor to request your presence and that of your staff, together with such further representation from your State as the Legislature thereof may see fit to authorize at such dedication.

A copy of the Act of Congress relating to the dedication is herewith inclosed; also a circular setting forth the progress made in establishing the park. A programme of the ceremonies will be sent you at a later day. No appropriation has been made by Congress for paying the expenses of State representatives. It is hoped, however, that the State

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Chapter 1009 made an appropriation for the expenses of the committee, and also the expense of the Governor and his staff in attending the dedication.

Chapter 857, approved May 31, appropriated $75,000 "for the erection of suitable monuments, memorial structures and markers on the battle fields of Wauhatchie, Lookout Mountain, Missionary Ridge, Tennessee, and Ringgold, Georgia, or about Chattanooga, Tennessee to the regiments and batteries from the State of New York who are designated in chapter 371 of the Laws of 1894, and for which no appropriation has heretofore been made.

of New York will make early provision for a large attendance of its citizens at this national dedication.

I am, sir, very respectfully, your obedient servant,

DANIEL S. LAMONT,
Secretary of War."

March 25. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *March* 25, 1895.

"The Constitution of the State makes it my imperative duty to recommend to the Legislature from time to time such measures as I may deem expedient.[1] In obedience therefore to that mandate, I call the attention of the Senate and Assembly to a matter which I regard as being of the highest present importance, namely, the reorganization of the inferior criminal courts of New York city. Ten weeks have elapsed since a bill having this object in view was introduced concurrently in both houses of the Legislature, but the measure has not yet been passed by either house. The session is fast drawing to a close and unless prompt action is taken upon it there is danger that it may fail to become a law. Such a result would be a public misfortune. There has been no measure before this Legislature which more deeply interests the people of New York city. It is widely perhaps generally believed that in some of the present police courts there is to-day a practical denial of justice.

The belief is strikingly sustained in the report made by a committee appointed to investigate certain departments of New York city, commonly known as 'The Lexow Committee.' It is there charged that 'a very important reason why the police have been able to carry on and successfully perpetrate their reprehensible practices is that at least some of the police justices have apparently worked in sympathy and collusion with them.' Again it is stated that, because of the maladministration that prevails in those courts, 'the poor and needy were unable to obtain redress or relief from the oppression or the tyranny of the police,' and that 'their path to justice was completely blocked.'

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[1] Const. 1894, art. 4, § 4.

These are serious charges and seem to be largely supported by public opinion in the city of New York. They invite the careful consideration of the law-making power and call for a speedy remedy. It is to those inferior criminal courts, the very sources of the administration of criminal justice, that the poor especially look for protection from oppression and wrong. When these fountains of justice are polluted the evil results to the people are beyond calculation. The bill to which reference is made was introduced in the Senate by the chairman of the investigating committee above-mentioned, presumably as the result of the inquiry which made that committee so familiar with matters needing the corrective action of the Legislature. Its object is to create an improved system of inferior criminal courts, and conformably to give the people a new board of police magistrates. This legislation is a necessary step toward municipal reform. It is supplementary to the Power of Removal bill already passed and which was recommended specially in my first message to the Legislature. The language used in that paper on this subject is as follows:* 'A power of removal bill for the city of New York, placing in the hands of the Mayor absolute and unquestionable authority to remove any of the appointive officers of the city government and to appoint their successors, is an immediate requirement at your hands.' I am convinced that this power of removal already conferred should not be limited to administrative officers, but that it is equally important that it should be made to apply to the police justices. A doubt has been expressed as to the constitutionality of this bill, but that doubt has been practically resolved in its favor by the recently published opinions of some of the most eminent and learned lawyers in New York city.

**Ante*, p. 551.

I desire also to call attention to the need of prompt reorganization of the Police Department of New York city. In the testimony before the Lexow committee it was charged that many members of the police force, among them officers of high grade, were not only blackmailers and extortioners but were actively in league with the criminal classes. It is generally believed that the extent of these alleged corrupt practices has not yet been fully revealed. The law-abiding classes are naturally uneasy under such a condition of things and knock impatiently at the doors of the Legislature for relief. They demand that police officers who have betrayed their trusts or used their great power oppressively shall be ascertained and dismissed without unnecessary delay, and the Legislature is asked to provide the method of relief. It is apparent that this request should be heeded and such legislation enacted as will meet the emergency.

I therefore recommend the early passage of the Police Magistrates bill, so called, and of a measure that will place in proper hands the power to reorganize and regenerate the Police Department of the metropolis.[33]

LEVI P. MORTON."

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[33] Chapter 601, passed May 10, abolished the office of police justice in New York, the abolition to take effect at midnight on the 30th of June. The abolition also included the office of clerk and all other assistants and subordinates, together with the jurisdiction, powers and duties of the justices and other officers. For the police justices the act substituted nine city magistrates, to be appointed by the mayor. These magistrates were to possess in general the jurisdiction and powers vested in the police justices. The act also provided for the appointment of a clerk and other subordinate officers. The act also authorized the mayor to appoint five justices of special sessions, and prescribed their jurisdiction.

The act contained regulations concerning procedure, and the powers and duties of the new courts.

The act was sustained in People ex rel. Thornton v. Hagan (1895), 14 Misc. Rep. 481; Koch v. New York (1897), 152 N. Y. 72; Stenson v. Koch (1897), 152 N. Y. 87; Re Quinn (1897). 152 N. Y. 89; People ex rel. Public Charities C. Comrs., v. Cullen (1897), 153 N. Y. 629.

April 1. To the Senate: Transmitting the annual report of the trustees of the Sailors' Snug Harbor.

April 8. To the Senate: Transmitting the annual report of the Health Officer of the Port of New York.

April 8. To the Senate: Transmitting the annual report of the receipts and expenditures of the Sailors' Snug Harbor.

April 11. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *April* 11, 1895.

"The Governor of Georgia has addressed letters to the governors of the several states and territories calling their attention to the Cotton States and International Exposition, which is to be held at Atlanta, Georgia, from September 18 to December 31, 1895, and inviting the states and territories to make exhibits of their resources and products and to send a liberal representation of their people. The scope of this exposition is neither sectional nor national but is intended to be international, it also having received the approval of Congress to that end. The governments of Argentina, Paraguay, Guatemala, Venezuela, Chili, Nicaragua, Honduras and Bolivia have already signified their intention to participate. Exhibits will also be forwarded from Austro-Hungary, Italy, France, England and Germany. The correspondence which has been addressed to me as chief executive of this State is transmitted herewith for your information.

The State of New York is specially invited to avail herself of this opportunity for the display of her commercial and manufacturing interests, and already many of her representative commercial and industrial firms and interests have been awarded space for their exhibits. The enterprise has been in course of preparation for many months past.

In view of the great progress of industrial and commercial establishment and activity in the south during the past few years, this movement on the part of her enterprising citizens is one to be especially commended. It is requested that the State provide officially for representation by a commission, with State headquarters at the fair.

I submit the question of providing for such representation to the wisdom and discretion of the Legislature suggesting, however, that a reasonable sum of money be appropriated to cover the cost of maintaining a headquarters building and defray the necessary expenses of such a commission, consisting of men and women, as it may seem proper to authorize.[34]

LEVI P. MORTON."

[See Senate Document 1895, No. 35, for the several communications relating to the Exposition.]

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[34] Chapter 841 approved May 31, created a commission to represent New York at the Atlanta Exposition, such commission to consist of four persons to be appointed by the Governor, and Mrs. Levi P. Morton, Mrs. A. Howard Townsend, President Colonial Dames of America and Regent of Mount Vernon; Mrs. Donald McLean, Regent New York City chapter, Daughters of American Revolution, and Mrs. Henry B. Plant. The act provided for a secretary to the commission, for its organization, limited its expenditures, and appropriated $25,000.

The Legislature appointed a joint committee consisting of the President of the Senate and five Senators, and the Speaker and nine other members of the Assembly, to represent the State at the opening exercises of the exposition on the 18th of September, 1895. Chapter 1009, made an appropriation for the expenses of the legislative committee, and also for the expenses of the Governor and his staff in attending the exposition.

An act passed in 1896, chapter 174, authorized the foregoing commission to transfer to the Piedmont Driving Club of Atlanta, Georgia, the buildings erected by the State for the headquarters of the commission at the exposition, and also to dispose of the fixtures and other property belonging to the State.

Another act passed in 1896, chapter 950, appropriated to the Wagner Palace Car Company $1,525.97, that sum being the balance due the company for the expenses of transporting the legislative committee to the exposition, which committee also attended the dedication of the Chickamauga and Chattanooga national military park.

May 2. To the Assembly:

Veto of a bill to reorganize the charities commission of Kings county.

"By chapter 491 of the laws of 1871 the superintendents of the poor of the county of Kings, five in number, were created 'Commissioners of Charities of the county of Kings,' and were made a corporation by that name. They were charged with the management of the poor department of the county, and were given control of all buildings and property belonging to this department.

The act creating the board was amended by chapter 114 of the laws of 1874, and their powers were somewhat enlarged and their duties more specifically defined. The board was reorganized by chapter 284 of the laws of 1880, and the official designation was changed to 'The Commissioners of charities and correction of the county of Kings,' and the number of commissioners was reduced to three. The appointment of commissioners was vested in the supervisor-at-large of Kings county. In addition to the management of the poor department, the new board was charged with the government and control of the penitentiary and the morgue of said county, and the appointment of all employees and subordinates in either institution. It was empowered to purchase all articles and supplies for the poor department and the penitentiary.

The law of 1880 does not specifically repeal either of the prior statutes, but it is inconsistent with many of their provisions and must be deemed to supersede them. The bill now under consideration aims at a reorganization of the board of charities and corrections by terminating the office of the present commissioners on the first day of June, 1895, and providing for the appointment of one commissioner by a board composed of the supervisor-at-large, the sheriff and the county clerk of the county. The commissioner is to hold office for five years and receive a salary of eight thousand dollars per annum. The commissioner is empowered to appoint a deputy commissioner at an annual salary not to exceed six thousand dollars, and such other subordinates or officers as now are, or hereafter may be, provided by law for said department.

Objection is made to the bill on the ground that it is unconstitutional, for the reason as stated that the sheriff and county clerk cannot constitutionally be made members of such appointing board; and it is said that no attempt has been made before to vest such power in either of these officers. It appears, however, that in 1858 the sheriff was made a member of a board charged with the duty of appointing a commissioner of jurors of Kings county and continued to act as such until 1870; and it also appears that in 1871 the county clerk of Kings county with other officers was charged with the duty of appointing a supervisor-at-large. I do not regard the bill objectionable on constitutional grounds, for it seems that the duty imposed upon these officers of appointing a commissioner of charities and correction is not prohibited by the Constitution. But the bill is objectionable and ought not to receive executive sanction for other reasons.

Even if there is no constitutional objection to the appointment of a commissioner by the sheriff, it is a grave question of propriety as well as of public policy whether this duty should be imposed upon him.

The functions of the sheriff and county clerk are chiefly executive, administrative and ministerial, and they cannot properly be classified as 'authorities' of the county except in a limited sense. The supervisors are the governing body of the county, and are 'authorities' thereof. The supervisor-at-large is an 'authority' of the county within the meaning of the Constitution, article 10, section 2, which provides that county officers shall either be elected by the people or appointed by the 'authorities' of the county. The power of appointment of the commissioners of charities and correction has been vested in the supervisor-at-large since 1880, and no complaint is made that he has not fairly performed the duties imposed upon him by law in the appointment of these commissioners.

On the first day of January, 1896, the consolidation of Kings county with the city of Brooklyn will become complete, and by the provisions of section 26 of article 3 of the Constitution the board of supervisors will then cease to exist, and the duties and powers of this board may then be devolved by the legislature upon the common council or board of aldermen of the city. Probably the office of supervisor-at-large will also cease to exist after that date, and some provision should be made for the selection of some other officer or board to appoint the successors of the present commissioners of charities and correction.

If this bill should become a law, the office of one of the members of the appointing board will probably cease to exist on the first of January next, and the power of appointment will then be left to county officers, not elected with a view to the performance of any such duty, but for entirely different purposes.

Under the law creating the office of supervisor-at-large, this officer is made practically the mayor of the county, because to him is given the power to preside at the meetings of the board of supervisors, without any vote, but he may veto acts and resolutions passed by the board. Hence he occupies to the county the same relation substantially as the mayor of the city. He becomes the chief officer also of the county, and the most logical transfer of the power of this appointment from the supervisor-at-large would be to the mayor; and for reasons already suggested it seems incongruous to vest this power of appointment in officers like the sheriff and county clerk. If one officer is not to be trusted with this appointment, to the mayor may be given the power of nomination subject to confirmation by the common council; but the appointment by the supervisor-at-large is not subject to confirmation now, and no good reason has been given why two other officers, or any other officer, should also be charged with the responsibility of this appointment.

For fifteen years one officer has had the power to appoint three commissioners. By this bill it is proposed to vest three officers with the power of appointing one commissioner. If any change is to be made in the present method of appointment, in view of the near consolidation of the city and county, it should be made to conform to that consolidation by continuing the appointing power after the first of January next in the hands of some city officer whose official life and functions will continue after that date.

It seems to be agreed that for many reasons a reduction of the number of commissioners from three to one is desirable; but that result can be accomplished without changing the appointing power. There seems to be no necessity of enlarging the appointing board simply to reduce the number of commissioners.

The bill under consideration seems to have been hastily drawn and is seriously defective in form as well as in its plan. It continues the designation of the board of charities and correction, although it provides for only a single officer. The bill says that there shall be 'a board of charities and correction of the county of Kings; shall be hereafter known and designated as a department of charities and correction of the county of Kings,' and then that 'the said department shall consist of one commissioner and a deputy commissioner and such officers or subordinates as are now or may hereafter be provided by law.' A reorganization of the department could be most easily accomplished by amendments to the act of 1880 creating the department; but instead we have an independent bill which may in some respects modify the act of 1880, but without specifically repealing any part of it.

A simple method of making the change would be to amend the act of 1880 by providing for one commissioner instead of three, and providing for another method of appointment. That would leave the remainder of the statute in force, and would avoid any confusion or uncertainty as to the effect of this bill if it should become a law. For the reason suggested I think this bill should not receive executive approval."

The bill was not passed over the veto.

May 13. To the Senate:

Veto of a bill to amend the county law as to bridges.

"The bill proposes to amend section sixty-eight of the county law, relating to bridges over county lines, by which boards of supervisors are required to provide for the care, maintenance, preservation and repair of bridges which intersect the boundary lines of counties. The present law provides that 'when such bridge shall span any portion of the navigable tidewaters of this State, forming, at the point of crossing, the boundary lines between two counties, such expense shall be a joint and equal charge on the two counties in which the bridge is situated,' and the board of supervisors in each county is required to apportion the expenses among the towns and cities therein according to their judgment; and the statute further provides that "no such bridge shall be constructed unless authorized by resolution adopted by the board of supervisors in each of such counties."

This bill proposes to strike out the provision last quoted and insert in place thereof the following: 'Provided, however, that where such a bridge is destroyed or removed a new bridge shall not be built, unless the board of supervisors of each county adopt a resolution deciding such new bridge to be necessary for the public interest, and such boards are hereby vested with exclusive power to determine the necessity of such new bridge.'

It is the evident intention of the proposed amendment to deprive the courts of any power to compel boards of supervisors by mandamus to construct bridges over streams forming boundary lines, in the cases mentioned in section sixty-eight. I think legislation of this character should not be encouraged, and it seems to me very unwise to clothe administrative boards with absolute power in cases of this kind, and place them beyond the control of judicial tribunals. The duty of keeping bridges in repair is plainly administrative and mandatory, and should not be made simply discretionary. The power and duty conferred upon boards of supervisors by the present law is in the public interest and for the public benefit; and legislation which seems expressly intended to relieve these boards from any supervision or control by the courts is I think opposed to sound public policy. If a board of supervisors should refuse to rebuild, in a proper case, a bridge which has been destroyed or removed, any citizen should have the right to invoke the aid of the court to compel the performance by the board of a public duty, and the court may be trusted to make a proper decision protecting the interests of all concerned."

The bill was not passed over the veto.

May 15. To the Legislature: Certifying to the necessity of the immediate passage of the bill consolidating the governments of the county of Kings and the city of Brooklyn, and regulating the same. The bill became chapter 954.

May 15. To the Legislature: Certifying to the necessity of the immediate passage of the supply bill, which became chapter 932.

May 15. To the Legislature: Certifying to the necessity of the immediate passage of Senate bill, No. 1373, entitled "An act to regulate and improve the civil service of the State of New York." The bill was not passed.

May 16. To the Legislature: Certifying to the necessity of the immediate passage of a bill fixing the tax rate, which became chapter 808.

May 16. The Legislature adjourned without day.

MEMORANDUMS FILED WITH BILLS BEFORE THE ADJOURNMENT OF THE LEGISLATURE.

March 1.

Memorandum filed with Assembly bill, chap. 56, providing a new police for West Troy.[85]

"This act provides for the election of four police commissioners in the village of West Troy at the village election to be held on the first Wednesday in March, 1895, and is intended to create what is called a 'bi-partisan police board.' By the act, each elector may vote for two police commissioners, and the two persons receiving the highest number of votes are to be deemed elected as two of such commissioners. It also provides for the canvass of the votes within ten days after the election by the village trustees, who are required to declare 'duly elected' the two persons receiving the highest number of votes. Provision is made for the appointment of the remaining commissioners as follows:

'The said trustees shall, immediately thereafter, appoint the two additional commissioners of police, who shall hold office for the same term as the commissioners elected, and which commissioners so to be appointed shall be those two persons who shall have received the highest number of votes next to the two persons who shall have been elected such commissioners of police, and which commissioners so to be appointed shall belong to and be of the same political faith and opinion on State and national issues as one or the other of the two political parties which, at the last preceding election for State officers, shall have cast the greatest and next to the greatest number of votes in said village, but they shall not belong to the same political party nor be of the same political faith and opinion on State and national issues as the commissioners who shall have been elected. If the two commissioners elected belong to different political parties, the commissioners appointed shall be the two candidates for commissioners not elected and receiving the highest and next to the highest number of votes, respectively, and belonging to different political parties.'

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[85] As to bi-partisan boards see Rathbone v. Wirth (1896), 160 N. Y. 459, holding unconstitutional the act of 1896, chap. 427, providing for such a board in Albany, and regulating the method of its selection.

As to bi-partisan election boards, see the Constitution of 1894, article 2, section 6, and also the Election law of 1896, chapter 909. These constitutional and statutory provisions limited representation to the two principal political parties.

This provision seems to me objectionable, but in view of the exigency of the impending election and the impossibility of amending the act before the election must be held, I have concluded not to ask the recall and amendment of the bill, but approve it in its present form, with the hope and recommendation that the law be amended at an early date so as to eliminate the objectionable features of the present bill.

Under the provisions of this bill it is quite possible that candidates receiving a less number of votes would be entitled to the appointment as against others who receive a greater number of votes. The act does not require the appointment of those who receive the next highest number of votes in all cases, but limits the appointment to members of the political faith casting the greatest or the next greatest number of votes on state and national issues at the preceding general election. Third party candidates, or candidates upon a citizens' or independent ticket, would not under this provision be entitled to appointment, although receiving a greater number of votes than other candidates belonging to one of the great political parties, but the candidates of the principal parties would be entitled to the offices without regard to the number of votes which they might have received.

If this construction of the bill is correct, it does not embody the principle of home rule and can scarcely be called popular government. The Constitution provides that local officers shall either be elected by the electors or appointed by local authorities.[m] This method of appointment, which excludes candidates who may possibly have received a greater number of votes and confines the appointment to candidates belonging to a particular party without regard to the number of votes which they may have received, is a very doubtful compliance with the provisions of the Constitution. The so-called appointment leaves no discretion to the appointing officers, and is in no sense an exercise of discretion.

By this method the trustees making the appointment have no choice. If bi-partisan boards of police commissioners or other local governing boards are deemed necessary in the administration of local government, provision should be made for ascertaining and respecting the will of the people in their choice of officers. This can be very easily accomplished by providing that no elector shall vote for more than two candidates, and that the four candidates receiving the highest number of votes shall be declared elected. This will provide for minority representation and will permit candidates receiving the highest number of votes to occupy the positions to which they may be chosen by the people. The vote of the village upon state and national issues at the last preceding general election can scarcely be of much consequence in determining questions of merely local administration. Local issues are usually quite different, and the people should be allowed to express their will, and their will should be respected, without regard to their votes at a prior election upon other broader and different issues.

It seems to me like a plain violation of the principle of home rule to limit the selection of police commissioners to members of the two great political parties without regard to local interests, and without regard to local temporary organizations which may be formed for the purpose of carrying into effect local policies which the people may deem important.

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[m] Const. 1894, art. 10, § 2.

I am informed that the Assembly recently adopted a resolution unanimously declaring its adhesion to the principle of home rule for the various municipalities of the State, and that municipal officers (other than inspectors of election) should be elected by the people or appointed by the mayors or other elected officers of each municipality. It seems to me that the Legislature should adhere to this principle, and in all legislation affecting municipalities provision should be made for home rule in its broadest sense by permitting the people to express their will freely on public questions and by permitting them to choose their own officers without regard to the issues or the existence of political parties at any previous time."

"SUPPLEMENTAL MEMORANDUM OF DATE MARCH 2, 1895.

There seems to be a misapprehension as to the scope of the memorandum filed with the bill relating to a bi-partisan police board in the village of West Troy, and the memorandum seems to have been construed as an indirect criticism or disapproval of the scheme of bi-partisan police.

No such criticism or disapproval was intended by the memorandum, and it is not fairly capable of any such construction. It was only intended to point out an apparent defect in the method of selecting commissioners, and to call attention to the fact that the political parties existing in November and the vote cast at that time upon state and national issues, were to be taken as the basis of selection of police commissioners, instead of the issues and the votes and the parties existing in the municipality at the time the police commissioners are elected.

The condition of parties in November should not in my judgment be taken as a criterion for the selection of officers of a merely local character several months afterward, and candidates representing local issues should not be deprived of office while receiving more votes than other candidates, simply because they do not belong to one of the two great political parties into which the State or Nation may have been divided months before; and the object of the memorandum was simply to suggest that, if bi-partisan boards are to be elected, the result should be allowed, to fairly express and represent the then existing sentiment on municipal questions.''

March 14.

Memorandum filed with Assembly bill, chapter 111, to provide a State Normal School building at Geneseo.

"This bill appropriates $75,000 for certain enlargements and repairs of the Normal School at Geneseo. I have already signed a bill appropriating $50,000 for completing a Normal School at Oneonta. There is now awaiting my action another bill appropriating $19,850 for repairs on the Normal School at Brockport. These three bills for completion, enlargement and improvement of Normal Schools aggregate $144,850. This is a large sum to be appropriated in any one year for the repairing of Normal School buildings. I am informed that the appropriation for these three schools are the most necessary of any required this year for these objects. There are yet pending appropriation bills in addition to the above for new Normal Schools and for repair and improvements of existing buildings, aggregating $455,000. There should be moderation in times like the present in expenditure for purposes of this kind. The objects sought to be obtained by the other bills that I have mentioned are doubtless worthy, and perhaps the expenditures recommended are in some degree necessary, but I think the expenditure provided for in those bills should be postponed until another year, unless necessary for preservation of property. While all the Normal Schools have done good work in the promotion of education, I think it is generally conceded that the State has gone as far as it should go at present in expenditures for their extension.

In my veto of Assembly bill number 583, known as the Ogdensburg Armory bill,* attention was called to the need of economy.

The reasons which prompted that message impel me to call attention to the large expenditures asked for Normal Schools, and to suggest that no further appropriations be made at this session except for the special purposes therein indicated."

March 23.

Memorandum filed with Assembly bill, chapter 164, for the relief of Tioga County.

" This bill provides for the audit by the Comptroller and the payment by the Treasurer of the disbursements made by the county of Tioga in connection with calling out the National Guard in the strike upon the Lehigh Valley Railroad in the year 1892, the amount to be paid not to exceed four thousand dollars.

It appears that in the month of August, 1892, a strike occurred on the Lehigh Valley Railroad at Waverly in the county of Tioga, and that it assumed proportions beyond the control of the sheriff by the ordinary means at his command. Availing himself of the authority given by statute, he called upon the Sixth Battery and the Twentieth Separate Company of the National Guard, located at Binghamton, to assist in preserving peace and protecting property. Both of these military companies responded to the calls and went to Waverly, the scene of the disturbance, on the 19th of August and remained until the 26th, when order was substantially restored and the troops were withdrawn.

***Ante*, p. 571.*

It further appears that the strikers were non-residents, coming from a point in the State of Pennsylvania on the line of the Lehigh Valley Railroad, and created the disturbance at Waverly which necessitated calling out the troops. The expenses of the strike were paid by the county of Tioga which now seeks reimbursement from the State.

Ordinarily it is the duty of the county to maintain peace and good order and protect property within its limits, and if it fails through its proper officers and citizens to do this, it may be held liable for damages sustained in consequence of its neglect. In behalf of this bill it is claimed that this strike was of such a character as to make an exception to the general rule and to warrant the State in reimbursing the county for expenses actually incurred. The exception is based upon the fact that the persons who precipitated and carried on this strike were non-residents, and the same rule should not be applied in this case as in cases where the persons creating the disturbance are citizens and residents of the county.

It appears that in this instance the county of Tioga was invaded by a body of men from another State, who violated the laws of this State by creating a riot and interfering with the possession and enjoyment of property. Under such circumstances I think the expense of maintaining the peace and protecting property should not be borne exclusively by the county, but that it is a matter in which the entire State has an interest, and the State as a whole should contribute some portion at least of the expense. The total expense incurred and paid by the county of Tioga in connection with this strike was much more than the sum asked by this bill and I think it only reasonable that the State should contribute the amount asked here or so much thereof as may be audited by the Comptroller, and for that reason I have decided to approve the bill."

March 28.

Memorandum filed with Senate bill, chapter 178, relating to guarantors and sureties.

" This bill as its title indicates seeks to amend chapter 720 of the laws of 1893, relative to guarantors and sureties. That act authorizes the acceptance and approval of official bonds where the conditions thereof ' are guaranteed solely by a corporation incorporated under the laws of this State, and authorized under its charter to execute the same, or to guarantee the fidelity of persons holding places of public or private trust, and to guarantee the performance of contracts, other than insurance policies, and to execute or guarantee bonds and undertakings required or permitted in all actions or proceedings, or by law allowed.'

The amendment consists in inserting after the word ' State ' the words ' or authorized to do business under the laws of this State.'

The present law limits suretyship in these cases to domestic corporations, and the evident intention of the proposed amendment is to permit foreign corporations to do the same business in this State. The practice of permitting bonds to be executed by companies seems to have originated in 1881, when an act was passed (chapter 486), entitled 'An act to facilitate the giving of bonds required by law.' By this act official bonds might be approved whenever ' guaranteed by a company duly organized or authorized to do business under the laws of this State, and authorized to guarantee the fidelity of persons holding places of public or private trust,' and no discrimination was made between domestic and foreign corporations. The act was amended in 1885, but the provision quoted above was not affected by the amendment. This statute remained in force until the general revision of the insurance law — chapter 690 of the laws of 1892 — when it was repealed, and no provision was enacted as a substitute for it except that by subdivision four of section seventy of the insurance law corporations were authorized for the purpose of 'guaranteeing the fidelity of persons holding places of public or private trust,' and also 'guaranteeing the performance of contracts, other than insurance policies, and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings, or by law allowed.'

As a consequence of the repeal of the act of 1881, courts were not expressly authorized to approve bonds guaranteed by this class of corporations, but this omission was supplied by chapter 720 of the laws of 1893, which was probably intended as a substitute for the act of 1881, except in the limitation of corporations authorized to guarantee bonds; and it was also probably intended to supply an omission in the insurance law, because the language of subdivision four already quoted is specifically used in the law of 1893, defining the general powers of corporations which were permitted to guarantee official bonds.

The amendment proposed by this bill restores the law to its condition prior to October 1, 1892, when the repeal by the insurance law took effect.

It has long been our policy to permit foreign insurance companies to do business in this State, and the insurance law provides for the authorization of such companies by the superintendent of insurance upon the certificate of the attorney-general. Without this amendment, foreign insurance companies organized for the purpose indicated in subdivision 4 of section 70 of the insurance law, above quoted, could be authorized to do business in this State and could do a limited business, but bonds guaranteed by them could not be accepted and approved by the courts, officers or bodies described in chapter 720 of the laws of 1893.

No satisfactory reason has been given why the policy of the State expressed in the act of 1881 and continued until October, 1892, was changed by the act of 1893, or why the business of guaranteeing official bonds should be confined exclusively to domestic corporations. It is not claimed that there were any abuses under the former practice, or that any losses were sustained in consequence of bonds guaranteed by foreign companies, and it seems inconsistent with the general policy of the State to make an exception against corporations in this particular class of cases.

Objection is made to this bill that it should only permit business to be done here by corporations organized under the laws of those states which permit equal privileges to New York corporations. Our insurance law now contains provisions for reciprocal requirements so far as concern depositing securities, or for the payment of taxes, fines or penalties, or certificates of authority or license fees, and directs the superintendent of insurance in the case of foreign corporations to require the same deposit, and the payment of an amount for taxes, etc., equal to the amount of such charges and payments imposed by the laws of such other State upon the insurance corporations of this State.

Whether any other State will permit a New York corporation to do business within its territory upon an equal basis with its own corporations is a matter of State policy.

In general this State has granted equal privileges to all corporations, whether domestic or foreign, and it seems to me that in this instance, instead of requiring other States to first enact laws to admit our corporations to equal privileges, it is wiser to continue the general policy and permit foreign corporations of the class indicated in this bill to do business here, without discrimination against any State."

March 30.

Memorandum filed with Assembly bill, chapter 189, amending the charter of Mount Vernon.

"This bill seeks to amend the charter of the city of Mount Vernon in several respects relative to the schools of that city. One of the amendments proposed clothes the board of education with exclusive power to license teachers. The existing law makes it the duty of the board to license teachers, but only upon the recommendation of the superintendent of the schools of the city. By the amendment this recommendation is dispensed with, and objection has been made to the bill that the matter of licensing teachers should not be left exclusively to the board. It is claimed that the Superintendent should have some power in the choice of teachers, inasmuch as he is charged with the general responsibility of the schools of the city, and that he should not be compelled to use teachers objectionable to him or whom he may think incompetent, and that such a division of responsibility and power as will perhaps result from this amendment will not be for the best interests of the schools. By the charter the superintendent is appointed by the board of education and has general charge of the schools of the city. The city schools are not subject to the jurisdiction of the school commissioner, nor it seems are the teachers subject to examinations which may be prepared by the superintendent of public instruction. I think the policy of giving boards of education power to determine the qualifications of teachers and to grant licenses is objectionable. It is contrary to the general policy of the State which seeks to provide a uniform system of examinations and licensing teachers. Examinations are prepared by the department of public instruction, and the superintendent has general control of the whole subject. I think the best interests of the State demand this policy. I am informed that there are several school districts in the State where licenses are granted by the board of education or other local officers, independent of the commissioner or superintendent of public instruction. I think it would be well to provide a uniform system for the entire State, and that a general law should be enacted which will place the responsibility, the duty and the power of prescribing the qualifications of teachers in the hands of the school officers charged with the general management of the schools, rather than in the hands of local boards.

Aside from the amendment relating to the licensing of teachers, this bill contains proposed amendments to the charter which are quite important and seem desirable, and I have decided to approve the bill for the sake of these amendments but without intending to approve a general policy of permitting boards of education to determine the qualifications of teachers, and with the hope that legislation may be enacted at an early day repealing or amending existing laws which confer upon boards of education the power to license teachers.''

April 6.

Memorandum filed with Assembly bill, chapter 254, giving the Board of Claims jurisdiction in the case of Linus Jones Peck & Co., which became a law without the Governor's approval.

'' This claim has once been heard by the Board of Claims and an award was made by the board against the State in favor of the claimant for $35,878.78. This was in 1890. The State appealed from the award to the Court of Appeals, which court reversed the award on the ground that incompetent evidence was admitted and also on the ground that the claim was barred by the statute of limitations, and a new trial was ordered before the Board of Claims.[n] There was no second trial, but in September, 1893, the claim was dismissed by the board by default upon motion of the Attorney-General.

The object of this bill is to permit the claimant to again present the claim to the board and have a new hearing of the entire matter. Ordinarily one presentation and hearing of a claim is all that a claimant can reasonably demand, but in this instance it appears that the claimant is prepared to present important additional evidence upon all the issues involved in the claim, and inasmuch as the board upon the former trial found that the State was actually indebted to the claimant for some amount, and that the award was not reversed upon the merits, it seems only reasonable that the claimant should have another opportunity to be heard.

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[n] Peck v. State (1893), 137 N. Y. 372.

I am therefore constrained to adopt the view of this matter manifested by the Legislature in passing this bill, and permit it to become a law."*

May 9.

Memorandum filed with Chapters 570, 571, 572, and 573, to regulate horse racing and to establish a state racing commission. [See note 7.]

"These four bills provide for the formation of associations for the improvement of the breed of horses, for holding trotting or running race meetings, for a State Racing Commission, and prohibit the keeping of gaming and betting establishments, and also pool-selling, book-making, bets and wagers. All relate to the same general subject, and for that reason are here considered in one group. Several statutes relating to the same or similar subjects are by these bills repealed or amended, and this group of bills will comprise what will be known as the 'Racing Law of the State.'

By chapter 478 of the laws of 1887 pool selling on race courses was legalized, and the provisions of the Penal Code relating to the subject were to be suspended during thirty days in each year, between May 15 and October 15, upon certain race grounds. This act made lawful, during the period named and upon these race tracks, that which elsewhere and during other portions of the year was treated as a crime. The act was amended by chapter 469 of the laws of 1893, and also by chapter 197 of the laws of 1894. By section nine of article one of the Constitution, as amended in 1894, it is provided among other things that 'neither pool-selling, book-making nor any other kind of gambling shall hereafter be authorized or allowed within this State, and the Legislature shall pass appropriate laws to prevent offences against any of the provisions of this section.' While the principal portions of the acts above cited are probably abrogated or rendered invalid by the constitutional amendment, some portions of the laws probably remain in force, but in consequence of the constitutional amendment, a revision of the laws relating to racing and racing associations seems to be required; hence the legislation proposed by the bills now under consideration.

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* For Governor Flower's veto of a similar bill in 1894, see *ante*, p. 369.

The first bill — that relating to the formation of racing associations — seems to be a great improvement upon the act of 1887 and contains none of the objectionable features of that bill, and the second and third bills, amending sections 343 and 351 of the Penal Code, also seem necessary to carry into effect the prohibition contained in the constitutional amendment. The fourth bill is explanatory of the first, and is made necessary also by some provisions of the general corporations law of the State which might otherwise affect associations formed under the first bill.

It seems to have been the intention of the framers of the law to provide every reasonable safeguard against gambling in connection with horse racing. Pool-selling, book-making, recording of bets and wagers and open gambling are prohibited under penalty of imprisonment or imprisonment and fine.

The proposed legislation also seems broad enough to prohibit the transmission by telegraph or telephone of orders or commissions for the laying of wagers upon horse races; and even where private individual wagers are made between persons, no token, receipt or certificate of the making of such wager or bet, or of liability to pay over or refund the money so wagered, can be passed or exchanged between the parties, and for a violation of this provision a penalty is imposed under which the loser may recover at law the whole sum so wagered between himself and the winner. Besides, the officials in charge of or controlling the racing associations and race tracks who may connive at, or permit violation of the law in this respect, are themselves made subject to imprisonment or both imprisonment and fine equally with the persons engaged in betting; and the racing commission created by the first bill is empowered to revoke the license of the association on whose tracks or grounds the law is violated.

It was probably not intended by the constitutional amendment to prohibit racing altogether, but the evil of pool-selling and book-making had become so great that the Constitutional Convention of 1894 felt justified in recommending the adoption of a constitutional provision against it, placing these things on the same basis as lotteries and the sale of lottery tickets, which were already included in the constitutional prohibition. By the bills under consideration the legislature has attempted to perform the duty imposed upon it by the Constitution and provide legislation which should prevent offenses against the provisions of the Constitution relating to pool-selling, book-making and gambling at horse races. Whether the object aimed at has been fully accomplished can only be determined by experience, and if this legislation shall prove inadequate or insufficient to prohibit or repress the evils mentioned, public sentiment will doubtless demand more stringent legislation in the future.

I am not unmindful of the objections which have been made to these bills by eminent citizens interested in maintaining good morals and good order, and I am in entire sympathy with the spirit of their objections. No one could deprecate more than myself any legislation which would have a tendency to increase rather than diminish gambling. But a careful consideration of these bills leads me to the conclusion that gambling at horse races will be materially lessened, if not altogether prohibited, by their provisions. At all events it seems wise that some legislation should be enacted. It does not seem proper to leave the statutes upon this subject in the uncertain condition produced by the amendment to the Constitution, and it is impracticable if not impossible at this stage of the legislative session to procure any other legislation than that proposed by these bills; and while they may not be satisfactory to all our people, it seems to me proper on the whole to approve them in the form recommended by the Legislature."

THIRTY DAY BILLS.

June 5.

Veto of the following items in the supply bill, chapter 932:

First. "For the Adjutant General, for building of an indoor rifle range in the rear of the State armory in the city of Oswego, four thousand dollars, or so much thereof as may be necessary." This seems like an unnecessary expenditure of money at this time. Probably sufficient opportunity can be obtained for rifle practice without erecting an indoor range for this express purpose.

Second. "For the compensation of the present financial clerk of the Assembly, for his attendance at the opening of the session of the Legislature of 1896, the sum of three hundred dollars."

I am unable to discover any good reason for this expenditure. The legislative law provides for the attendance of certain officers of each house at the opening of the next succeeding session of the legislature and for their compensation. The financial clerk of the Assembly is not included in this number. No good reason is given why his attendance is required, or if required, why it should not have been procured by an amendment to the legislative law. The officers who are required by the legislative law to attend at the opening of the succeeding legislature are to be paid the same per diem compensation as they were entitled to receive at the preceding session for like services. This appropriation fixes the gross sum which this clerk may receive without regard to the number of days he may attend. This would establish a precedent which would be likely to be annoying in the future. If the next Assembly should need the services of this clerk, it can employ him and pay him whatever his services may be worth.

June 12.

Veto of the following items in the supplemental supply bill, chapter 1009.

First. "For the Comptroller, for payment to the Panama Railway Company for taxes erroneously paid, the sum of twenty-five thousand dollars."

It appears that this company, during the years 1881, 1882, 1883 and 1884, paid into the State Treasury taxes assessed and levied upon it under the provisions of the Corporation Tax Law of 1880 and 1881. By an amendment to the tax law, passed in 1885, the liability of the company to taxation was reduced, and since then it has been taxed upon a different basis. In 1891 the Comptroller re-settled and readjusted the accounts of this company for taxes of 1881, 1882, 1883 and 1884, and thereupon credited the company with the sum of $94,025.85. It seems quite clear that under the tax laws of 1880 and 1881 this company was liable for the tax which it paid, and that it has no valid claim against the State for any part of such taxation, unless the resettlement by the Comptroller creates such a claim. Assuming such resettlement to be valid and binding upon the State, the law does not direct a re-payment of the amount to the company, but provides for a credit upon future tax; and no appropriation to refund the tax should be made, unless it be made to appear that the tax was in fact erroneously paid.

The company is now receiving the benefit of the re-settlement made by the Comptroller by credit upon the tax which it is now paying annually under the provisions of law. This appropriation does not purport to be in full settlement of any claim the company may have against the State, and if it be approved, other appropriations will probably be called for hereafter. If any appropriation is to be made to refund the tax paid by this company, it should be made in a manner and in an amount which will be a full settlement of the whole matter.

Second. "The sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of moneys not otherwise appropriated, for the erection and construction by the Superintendent of Public Works, on plans prepared by the State Engineer, of a dyke or breakwater at a point on the east side of the Hudson river, north of the Albany and Greenbush bridge, beginning at the southwest corner of a dock formerly known as the Warren and Wilbur dock, and running from thence south about three hundred and fifty feet, more or less, to the dock at the foot of Ferry street, in the village of Greenbush."

There does not seem to be any public necessity for this work. It appears to be a private enterprise, and if so the expense should not be borne by the State.

June 13.

Veto of Assembly bill to provide for lifting locks on the Erie canal. [See note 8.]

"This bill provides for the construction of one pair of lifting locks of double boat length, with the necessary approaches thereto, and the necessary foundations, machinery and appliances therefor, to replace the present series of five combined twin locks on the Erie canal at Lockport, and the sum of one hundred thousand dollars, or so much thereof as may be necessary, is appropriated for the purpose specified. It is urged in behalf of the bill that the construction of this pair of lifting locks to replace the five combined twin locks at Lockport will greatly facilitate the transaction of business on the Erie canal.

By a law which took effect on the sixth of March last, provision is made for submitting to the people of this State at the next general election the proposition whether the State shall issue bonds to an amount not to exceed nine millions of dollars for the purpose of enlarging and improving the Erie, the Champlain and the Oswego canals, and in the event of the adoption of such proposition, bonds are to be issued for the purposes indicated.

In view of this pending proposition it does not seem advisable at this time to approve the bill now under consideration, and I think the proposed improvement at Lockport should be deferred until an expression of opinion has been obtained from the people of the State upon the general question of canal enlargement. If the proposition to expend nine millions of dollars upon the canals be approved, the enlargement of the locks mentioned in this bill will probably be necessary, and the expense thereof can be paid from the fund raised by the sale of bonds authorized by the above mentioned law, and without any additional appropriation. About one million two hundred and fifty thousand dollars have already been appropriated this year for the canals, for what seem to be necessary maintenance, repairs and improvements, and I think that in view of the heavy appropriations already made, and the proposition now awaiting action by the people, the public interest requires the postponement of the contemplated improvement at Lockport."

June 14.

Veto of Senate bill for the erection of an armory at Buffalo.[36]

"The bill provides for the transfer by the city of Buffalo to the people of the State of a tract of land for the purpose of an armory site for the Seventy-fourth regiment of the National Guard, and for the erection of an armory upon such land by the State at a cost not to exceed in the aggregate the sum of four hundred thousand dollars, but the appropriation is not to be available until on or after the first day of April, 1896.

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[36] An armory at Buffalo for the Seventy-fourth Regiment was provided for in 1896, by chapter 584, which limited the cost to $400,000.

In a message transmitted to the Assembly on the twenty-eighth of February last, disapproving a bill providing for the erection of an armory at Ogdensburg, it was suggested that no appropriation should be made which can be deferred without injury to the interests of the State, and especially that no new armories or normal school buildings should be erected this year. Attention was called to the fact that several bills were pending for appropriations for repairs and improvements upon armories, as well as for several new armories. Afterwards I declined to approve a bill for a new armory at Whitehall. Several appropriations have been approved for repairs and improvements upon armories, but none have thus far been approved for new armories. In view of the policy already indicated I cannot consistently approve this bill. Other bills are now pending for new armories, and an approval of this bill would require the approval of the others, and thus involve a reversal of executive policy, for which reversal no sufficient reason could be given.

It has been urged that an approval of this bill would be proper, because of the approval of a bill making an appropriation for repairs and enlargement of the armory of the Forty-seventh regiment in Brooklyn, but that appropriation was strictly in line with the policy indicated early in the late session of the Legislature, that appropriations for armories should be confined to necessary repairs and improvements.

In disapproving this bill it seems proper to say that the Seventy-fourth regiment is not now without an armory, although no appropriation therefor has been made by the

State — it appearing that the present armory used by this regiment was erected wholly at the expense of the county of Erie. The pending bill provides for the transfer of the present armory to the city of Buffalo upon the completion of the new armory.

It is also urged in behalf of this bill that the facilities afforded by the present armory are inadequate, and that the best interests of the military service require a new building. This suggestion is not without force, but it can have no greater weight than a similar suggestion made in behalf of the military company at Whitehall, which has been in existence several years, and whose drill-room was destroyed by fire while that armory bill was under executive consideration.

It appears from reports of the Adjutant General, and from information derived from other sources, that the Seventy-fourth regiment has reached a high degree of proficiency and is one of the best in the National Guard. It should probably soon be provided with additional and more adequate accommodations, and the Legislature will doubtless in the near future give this matter the attention which its importance seems to demand."

June 14.

Veto of Senate bill to provide for a state dam on the Genesee river.

"This bill provides for the erection of a dam at some point on the Genesee river for the purpose of providing a supply of water for the use of the Erie canal, and also for the use of the owners of water power upon the Genesee river. The bill does not attempt to locate the dam definitely, but requires its construction at one of the three sites referred to in the report of the State Engineer and Surveyor submitted to the Legislature January 2, 1894. The bill requires the construction of a dam fifty-eight feet in height above the stream bed, and in such manner and of such dimensions as to be capable of being extended to the height of one hundred and thirty feet. The bill makes an appropriation of $150,000, ' or so much thereof as may be necessary,' for the purpose of carrying into effect the provisions of the act. Ten thousand dollars of this amount are specifically appropriated for plans and specifications of the proposed dam, leaving $140,000 for the construction of the dam itself.

The sites proposed for the dam are all in a gorge in the Genesee river near Mount Morris, and are about forty miles from the city of Rochester. If a dam is to be constructed upon the Genesee river for the purpose of water storage, this gorge is the most available place. Civil engineers and others agree that the opportunities for storing a large quantity of water at this point are unsurpassed if not unequalled. It is estimated that a dam fifty-eight feet high would store about 1,500,000,000 cubic feet of water, submerge about 406 acres of land, and cause a back flowage of about ten and one-half miles; that a dam one hundred feet high would store about 4,800,000,000 cubic feet of water, submerge about 2,090 acres of land, and cause a back flowage of about thirteen and three-quarters miles, and that a dam one hundred and thirty feet high would contain nearly 8,000,000,000 cubic feet of water, flood 2,350 acres of land and reach back about fifteen miles.

From the discussion of this topic, referred to in the bill, it appears that the cost of a dam fifty-eight feet high, at what is called the ' hog back ' site, would be about $850,000; at site designated as ' No. 1,' $1,200,000; at site designated as ' No. 2,' $1,300,000, and that the expense of completing a dam fifty-eight feet high, of sufficient dimensions to be capable of being extended to a height of one hundred and thirty feet would be, at the sites above mentioned respectively $2,100,000, $3,150,000 and $3,350,000, and to first complete a dam fifty-eight feet high, and afterwards raise it to one hundred and thirty feet, the estimated expense would be at the same sites respectively $2,500,000, $3,250,000 and $3,400,000.

These estimates are official and they show that the amount appropriated in this bill is a very small portion of the whole sum which will probably be required, if this dam is to be built at the expense of the State. While a dam at the point named is probably desirable, and will be beneficial to the residents of the Genesee valley and especially to the people of Rochester, it does not seem to me wise for the State to enter upon this expensive public work at this time. So far as concerns the value of the dam as a feeder for the Erie canal, it may be doubtful whether the condition of canal business at the present time, and the necessities of the canal itself, justify such a large expenditure. If the proposition to deepen the Erie canal to nine feet, upon which the people will vote in November next, be approved, an additional water supply will be required, and in that event the construction of this dam may be deemed necessary; but for canal purposes alone it does not seem wise to begin the work until the people have expressed their approval of the proposition for canal enlargement. Another purpose for which the dam seems to be desired is to furnish a supply of water for use by manufacturers and others in the city of Rochester, and it is also urged in behalf of the bill that the dam will prevent floods and consequent damage to property, which have sometimes resulted from a sudden and extraordinary rise of the Genesee river.

So far as concerns the additional water power to be supplied by means of this dam in the city of Rochester, it may be fairly contended that this city should bear some portion of the expense. No provision is made for any such contribution by the city in the pending bill, and I am of the belief that if the State should determine to build such a dam upon the Genesee river, some provision should be made whereby the city of Rochester, and possibly other localities interested in the work, may contribute to the expense of construction.

The commission appointed by the Governor in April, 1892, under the concurrent resolution of the Legislature adopted in March of that year, providing for such a commission to inquire and report as to the expediency of constructing a dam upon the Genesee river for the purposes indicated, made a report to the Legislature under date of February 2, 1893, urging the importance of such a dam and recommending its construction. The State Engineer and Surveyor has also on several occasions recommended that such a dam be built. As already suggested, if the proposition for canal enlargement be approved public sentiment may justify the construction of the dam in the Genesee river for canal purposes. If the proposition to deepen the Erie canal be not approved, the question will still remain whether a dam in this river may not be desirable for the protection of property and the increase of water power in the city of Rochester, and the expediency of engaging in this public work and the proportion of the expense thereof to be borne by the State will be proper subjects for consideration by the Legislature. But in view of the question of general canal improvement now pending before the people, to be decided at the next election, and also in view of the fact that this bill makes no provision for any contribution toward the expense of the dam by any of the localities interested, I think it should not be approved."

June 15.

Memorandum filed with Assembly bill, chapter 1041, providing for certain studies in the public schools. Approved.

"This bill was introduced into the Assembly on the 13th of February last, and remained under consideration in the Legislature until near the close of the session, when it was passed without a dissenting vote in either branch. During its pendency several hearings were had before committees and ample opportunity was given for a full discussion of its provisions. All of the objections have been carefully weighed and duly considered, but they do not seem to me to be sufficient to warrant me in disregarding the unanimous expression of opinion by the Legislature.

This bill purports to amend sections 19 and 20 of article 15 of the Consolidated School law. This law is divided into titles which are subdivided into articles. Sections 19 and 20 of title 15 relate to the subject-matter of this bill and are probably the sections intended to be amended by it.

Section 19 requires provision to be made by the proper local school authorities for instruction of pupils in all schools supported by public money or under State control, in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.

Section 20 prohibits the granting of a certificate to teach in the public schools of the State to any person who has not passed a satisfactory examination in the subjects referred to in section 19. By other portions of the Consolidated School Law trustees of common school districts and Boards of Education of Union Free School districts are given power and it is made their duty to prescribe the course of study in the respective schools and to make provision for instruction in the subjects referred to in section 19. By section 19 as amended by this bill it is provided that the ' nature of alcoholic drinks and other narcotics and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene, as thoroughly as are other branches for not less than four lessons a week for ten or more weeks in each year in all grades below the second year of the high school, in all schools under State control, or supported wholly or in part by public money, and also in all schools connected with reformatory institutions. All pupils must continue such study until they have passed satisfactorily the required primary, intermediate or high school test in the same, according to their respective grades. The local school authorities shall provide needed facilities and define the time and place for this branch in the regular course of study.'

The study of the subjects indicated has been required by our law since 1884, and they have become a part of the course of the instruction in the public schools of the State. The bill now under consideration makes no change in the subjects to be taught, but fixes the time during which this study shall be pursued. It seems to be the intention of the bill to provide a minimum time for this study of four lessons a week in each of the grades classified as primary, intermediate, and high school, making three terms in all. This may also be the maximum time required, for the bill only requires a study of this subject until the pupil shall have passed a satisfactory examination in each grade, and if this examination be passed at the end of a single term, the pupil is not required to continue the study until he enters the next grade. The examinations are under the supervision of the local school authorities or the teachers, and the character of the examinations is subject to their judgment. The administration of this law being entirely in the hands of the local authorities and teachers, the efficiency of the instruction to be given will depend wholly upon their interest and good judgment.

The objection that this law will require an increased and burdensome amount of study upon this subject, out of proportion to its importance compared with the rudimentary studies necessary in the early periods of education, is not I think supported by either its letter or spirit. I am informed that the common district schools are not usually graded, and where no grades exist provision can easily be made for complying with the spirit of the law by providing an equivalent amount of study at such times and for such periods as may be deemed best. I think the law will be improved by this amendment. The present law fails to fix any definite time or period during which this study shall be pursued, and the whole matter is left to the discretion of the persons in charge of the school. This bill fixes a definite time and the courses of study and the work of the teacher may be arranged accordingly. I think the amendment must have the inevitable effect of simplifying and making much easier the work of the teacher, and at the same time it seems to provide for all the instruction upon this subject that can reasonably be desired.

Objection is also made to the bill that it will require the purchase of a large number of additional text-books. It is to be noted that the text-books to be used are upon the subjects of physiology and hygiene, and not alone upon the subject of the effects of alcoholic drinks. Physiology and hygiene will doubtless be studied much more than the other subject to be taught in connection with it, and the bill provides that the text-books upon physiology shall contain a given amount of matter relating to the other subject.

I am informed that there is a large number of text-books upon physiology now available which contain the matter required by this bill. The present law imposes upon boards of education in cities, villages and Union Free School districts the duty of adopting and designating text-books to be used in the schools under their charge. In common school districts text books are to be designated by the people at the annual school meeting. After such text-books have been adopted they cannot be changed within a period of five years, except upon a three-fourths vote of the board of education or of the legal voters present and voting at the annual school meeting.

It seems to be the intention of this bill to continue the use of text books already designated until the expiration of the five years for which they may have been adopted. After that time and when new text-books are designated, it will probably cost no more to purchase text-books which comply with this law than to buy those which do not comply with it, so that, under a fair and reasonable administration of the law, no serious additional expense need be incurred.

Objection is also made that a penalty is imposed involving a loss of public money to the district, city, normal or other school failing to comply with the requirement of this law, but I see no difficulty in so administering the law as to avoid this result. It only requires a reasonable degree of care and watchfulness on the part of school officers to insure a satisfactory compliance with the law, and if this be done there need be no failure to receive the public school money.

There is one feature of the law which does not seem to have been referred to in the discussion concerning its provisions, namely, the requirement that instruction in the subject indicated be given 'in all schools connected with reformatory institutions.' There does not seem to be any provision of law requiring instruction in this subject in these institutions, and it appears from information received in response to inquiries made at the office of the State Board of Charities, that no instruction upon this subject is given in any of these institutions except the Elmira Reformatory. If this instruction is important or desirable for the pupils in our common schools, it must be equally important for the inmates of industrial schools and the various institutions for the care of juvenile delinquents.

The new Constitution (section 1 of article 9) requires 'the Legislature to provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.' The power to establish schools implies the power to prescribe courses of study therein, and what those courses of study shall be must be largely a matter of legislative policy. The fact that the legislatures of forty-one States, including our own, and the congress of the United States, have already passed laws providing for instruction in the subjects indicated in this bill, shows that it is supported by a widespread public sentiment; and inasmuch as this bill seeks to simplify and reduce to a more systematic method the study of the effects of alcoholic drinks and narcotics upon the human system, without necessarily increasing the amount of study required by the present law, I think it should receive executive approval."

June 15.

Veto of Assembly bill to establish the Manhattan State Hospital. [See note 1.]

"The bill was passed by the Assembly on the eighth of May last, by the Senate on the ninth, and on the tenth a certified copy thereof was transmitted to the mayor of New York for his action, pursuant to the provisions of the Constitution. On the twenty-first the original bill properly certified was presented to me, and on the twenty-fifth the certified copy of the bill was returned by the mayor but without any certificate showing whether the city had or had not accepted the same, and also without any certificate showing that the public notice and an opportunity for a public hearing upon said bill had been given, as required by the Constitution and by chapter 9 of the Laws of 1895. The question is now presented whether this bill can properly receive executive approval, or whether it is subject to executive action at all, and this involves a consideration of the question: First, whether the bill is one for a special city law within the meaning of section two of article twelve of the Constitution; and second, whether, being such a bill and therefore one of the class of bills required to be first submitted to the mayor for his consideration, it is subject to executive consideration without any action by the mayor.

I think it is conceded by every one who has given the matter careful consideration that this bill is a 'city bill' within the meaning of the Constitution. It relates to the property of the city and provides for its transfer to the State, and it requires action by certain city officers. It is so clearly one of the class of bills which must be submitted to a city before being subject to executive consideration, that further discussion of that question is unnecessary. The question of the power of the Governor to act upon a bill is primarily one of jurisdiction; so the real question here is — has the Governor jurisdiction of this bill? The jurisdiction of the Governor to act upon a bill depends upon the existence of various conditions. One is that a bill must have received the votes of a majority of the members elected to each branch of the Legislature.* Certain bills also require the presence of three-fifths of the members of each branch when the vote is taken upon their final passage;† and still another class of bills cannot be properly passed without the affirmative vote of two-thirds of the members elected to each branch of the Legislature.‡ If either of these Constitutional requirements is lacking in a given case, the Governor has no jurisdiction to act, and an approval of such a bill by him does not make it a valid law. In addition to these jurisdictional requirements, which must be considered in the case of every bill, the Constitution as amended in 1894 imposed another jurisdictional limitation upon the power of the Governor in the case of bills which are required to be first submitted to the city to which they relate. By virtue of this new provision the Governor obtains no jurisdiction of a so-called 'city bill' until it has first been submitted to the city, and is either accepted by it, or if not accepted is again passed by the Legislature. The Constitution provides that 'whenever any such bill is accepted as herein provided it shall be subject as are other bills to the action of the Governor.' The express grant of power to act upon an accepted bill cannot be treated also as a grant by implication of the same power to act in the case of a bill not accepted. No suggestion is made that the Governor has any power to act upon a ' city bill,' only in case of its acceptance by the city or of its second passage by the Legislature. The Constitution contains no intimation that jurisdiction is intended to be conferred upon the Governor with equal effect, whether the bill is accepted or not accepted by cities. The Constitution evidently intended to confer upon cities the power to determine in the first instance what laws should be enacted affecting their interests, but the Constitution reserves to the State the final sovereignty by conferring upon the Legislature the power to pass a ' city bill ' the second time, notwithstanding its rejection by the city; and also by conferring upon the Governor the same power to act upon such a bill so passed the second time, as if it had been accepted by the city in the first instance, but the Constitution does not give the Governor any power to make law that which the authorities of the city say shall not be law, excepting in the single instance of the second passage of the bill by the Legislature; and a ' city bill ' upon its first passage is not yet subject to the jurisdiction of the Governor. It is still in an initiatory condition. During the session of the Legislature such a bill may pass from an initiatory to a complete condition, but the contention that a bill rejected by a city after the adjournment of the Legislature is nevertheless subject to the action of the Governor, implies that the Governor has more power in the making of laws after an adjournment of the Legislature than while it is in session, and that the Governor in case of such a bill after adjournment has as much power as the Legislature while in session, which would not perhaps be seriously urged.

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* Const. 1894, art 3, § 15.

† Const. 1894, art. 3, § 25.

‡ Const. 1894, art. 3, § 20.

The Constitutional provision regarding submission of bills to cities should be construed so as to have some force and effect, and the evident design of giving to a city some power to determine the character of legislation affecting it would be of no effect, and the action of a city upon a bill affecting its interests would amount merely to an expression of opinion, if the Governor has power to make a bill a law which the city has declined to accept; therefore the submission of such a bill to a city would be a mere idle ceremony.

I think a study of the development of the subject of ' home rule ' for cities in the Constitutional Convention of 1894 shows very clearly that it was the intention of that body to give to cities more than the mere right to express an opinion upon a pending measure, and to confer upon them a considerable degree of local government. The first proposition submitted to the Convention, on the 27th of July, entitled ' To provide home rule for cities ' contained elaborate provisions regulating the internal affairs of cities, and it was therein provided that ' except as permitted by section 4, the Legislature shall not pass any law relating to cities, except a general law or a general city law, as to any of the following subjects '— enumerating various classes of subjects concerning city affairs. By section 4 referred to, it was provided that ' laws may be passed affecting one or more of the subjects enumerated in the last preceding section, in any city, on the consent of the Mayor, or the Mayor and Common Council, given as hereinafter provided,' and after providing a special enacting clause for such bills the section further provides that ' after any bill with such an enacting clause has been presented to the Governor, and before he shall act thereon, there shall be twenty days in which, as to any city of five hundred thousand inhabitants or over, according to the then last State enumeration, the Mayor of the city named in the title of the bill may consent thereto; and in which, as to any other city, the Mayor and Common Council thereof may consent thereto, but no consent shall be given until after five days' notice by publication in the newspapers designated to publish city notices, stating the title of the bill in full, and that the city officers here designated for such city are considering the question of consenting thereto. After such consent is given and presented to the Governor he shall have the same power as to such bill and the same time to act thereon as to other bills.' There is no suggestion that the Governor has any power to act upon such a bill except upon the consent of the city, and no power is given to the Legislature to overrule the action of a city in declining to accept such a bill.

This 'home rule' proposition was debated at great length, and was several times modified and reprinted until it was finally agreed upon in the form in which it appears in article XII of the Constitution; but throughout all the modifications of the article the design is clearly preserved to confer upon a city a large measure of control over legislation affecting it, subject only to be overruled by the action of the Legislature itself, which provision was added in the course of the discussion of the proposition in the Convention.

It does not appear that the Mayor of New York took any action upon this bill. If the jurisdiction of the Governor depends upon the previous action of the city to be certified in the manner prescribed by the Constitution, and no such certificate accompanies the bill returned by the Mayor, the Governor acquires no more jurisdiction than he would acquire if the bill had not been returned by the Mayor at all, and it probably will not be urged that the Governor has jurisdiction of a bill which is not returned by the Mayor.

I have been strongly urged to approve this bill, but I cannot do so without over-riding what seems to me to be a plain constitutional limitation, and I am unwilling to approve a measure of which I have no constitutional jurisdiction and which by such attempted approval could not become a law, even though the measure be one of great public interest.

I deeply regret the condition produced by the failure of the Mayor to approve this bill, but I cannot in a conscientious performance of my constitutional duty, add to the unfortunate result of the Mayor's want of action, a plain violation of the Constitution."

June 15. The omnibus veto included the following bills:

Assembly bill number 695, entitled "An act to amend the consolidated school law in relation to the apportionment of the public moneys and the examination of teachers in special branches."

Assembly bill number 1090, entitled "An act to amend chapter one hundred and ninety of the Laws of eighteen hundred and eighty-two, entitled 'An act to re-establish the original arms of the State of New York and to provide for the use thereof on the public seals, and to define and establish the State flag."

Assembly bill number 1414, entitled "An act to amend the county law relating to the collection of taxes for fire purchases in fire districts."

Assembly bill number 1433, entitled "An act to establish a normal and training school at the village of Millerton in the county of Dutchess and to make an appropriation therefor."

Assembly bill number 1615, entitled "An act authorizing the double-chloride of gold treatment in the State prisons of the State."

Assembly bill number 1788, entitled "An act to regulate the practice of horse-shoeing in the cities of the State of New York having a population of five hundred thousand inhabitants or more."

Assembly bill number 1693, entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages,' relating to the assessment of damages for opening and altering streets."

Assembly bill number 1694, entitled "An act to amend chapter four hundred and fifty-two of the laws of eighteen hundred and eighty-eight, as amended by chapter four hundred and seventy-three, of the laws of eighteen hundred and ninety-three, entitled 'An act to authorize and empower the board of trustees of incorporated villages in this State to contract with the electric light companies organized under the laws of this State, for lighting the streets and public grounds of said villages."

Assembly bill number 1726, entitled "An act allowing stonecutters, paving cutters, block-breakers and quarrymen to file notice of lien for work, labor and services rendered in excavating, cutting and dressing sandstone."

Assembly bill number 1777, entitled "An act to enable owners of lands which have been subdivided by map into lots or plots to disclaim and abandon the subdivision thereof."

Assembly bill number 1782, entitled "An act to amend section sixty-three of chapter three hundred and seventeen of the laws of eighteen hundred and ninety-four, entitled 'An act in relation to the public lands, constituting chapter eleven of the general laws, relating to effect of deed on rights of others.'"

Assembly bill number 1898, entitled "An act to authorize any justice of the peace of the town of Owasco, Cayuga county, to appoint special officers."

Assembly bill number 1841, entitled "An act to create the Metropolitan Post-Graduate School of Medicine."

Assembly bill number 1977, entitled "An act conferring jurisdiction on the Board of Claims to hear and determine the claim of James M. Ruso against the State and to make an award therefor."

Assembly bill number 2057, entitled "An act to amend the game law relating to black and Oswego bass not to be fished for in certain waters."

Assembly bill number 2101, entitled "An act to amend the Penal Code, relating to trades, manufactures and mechanical employments on Sundays."

Assembly bill number 2264, entitled "An act to amend chapter three hundred and sixty of the laws of eighteen hundred and sixty, entitled 'An act relating to wills, by providing that certain devises or bequests to charitable or religious societies or corporations shall be void if made within two months of the death of the testator.'"

Assembly bill number 2342, entitled "An act to amend section sixteen hundred and seventy-four of the Code of Civil Procedure of the State of New York relating to notices of pendency of action and cancellation of same."

Assembly bill number 2383, entitled "An act to amend chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to counties, constituting chapter eighteen of the general laws.'"

Assembly bill number 2494, entitled "An act to regulate the practice of architecture."

Assembly bill number 2496, entitled "An act to fix and establish the annual salaries of the county judge and the surrogate of Albany county, repealing section two hundred and twenty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two so far as it relates to Albany county."

Assembly bill number 2539, entitled "An act to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, as amended by chapter two hundred and twelve of the laws of eighteen hundred and ninety-one and chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to highways, constituting chapter nineteen of the general laws.'"

Assembly bill number 2564, entitled "An act for the protection of mechanics and others."

Assembly bill number 2567, entitled "An act to amend section ten of chapter one hundred and thirty-three of the laws of eighteen hundred and forty-seven, entitled 'An act authorizing the incorporation of rural cemetery associations, as amended by chapter thirty-one of the laws of eighteen hundred and seventy-seven.'"

Assembly bill number 2571, entitled "An act to amend section twelve hundred and thirty-six of the Code of Civil Procedure relating to the entry of judgment."

Assembly bill number 2601, entitled "An act to amend the general Corporation Law, relating to prohibition of use of same name by corporations."

Assembly bill number 2614, entitled "An act to provide for the erection and furnishing of an armory for the use of a company of the National Guard in the village of Sing Sing."

Assembly bill number 2619, entitled "An act to amend article four of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, entitled 'An act in relation to highways,' constituting chapter nineteen of the General laws, relating to altering, discontinuing or laying out a highway.' "

Assembly bill number 2621, entitled "An act to amend the Insurance Law."

Assembly bill number 2637, entitled "An act to amend section two thousand five hundred and sixty-one of the Code of Civil Procedure relating to costs in Surrogate's Court."

Assembly bill number 2737, entitled "An act to amend the Stock Corporation Law."

Assembly bill number 2741, entitled "An act to further amend the Code of Civil Procedure relative to exceptions."

Assembly bill number 2742, entitled "An act to repeal chapter three hundred and twenty-eight of the laws of eighteen hundred and ninety-one, entitled 'An act in relation to the keeping open the office of the clerk of the county of Columbia.' "

Assembly bill number 2743, entitled "An act exempting the State Soldiers and Sailors' Home from the provisions of chapter four hundred and one of the laws of eighteen hundred and ninety-two and all acts amendatory thereof and supplemental thereto."

Assembly bill number 2767, entitled "An act to amend the Consolidated School Law in relation to the creation of school commissioners districts."

Assembly bill number 2779, entitled "An act to amend sections one, two and three of chapter three hundred and forty-two of the laws of eighteen hundred and eighty-three, as amended by chapter fifty-nine of the laws of eighteen hundred and eighty-six, entitled 'An act to fix the place in which certain property shall be assessed, and granting relief in cases of assessment in two places.'"

Assembly bill number 113, entitled "An act to provide for the erection of a State armory in the city of Hudson, Columbia county, the acquisition of a site therefor, and to make an appropriation for building said armory."

Assembly bill number 521, entitled "An act to amend chapter five hundred and ninety-seven of the laws of eighteen hundred and ninety-four, entitled 'An act in relation to Lewis avenue in the city of Brooklyn.'"

Assembly bill number 1259, entitled "An act to amend section six of title two of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the appointment of the city clerk."

Assembly bill number 1927, entitled "An act to divide the department of city works of the city of Brooklyn into three departments and to define the powers of the several departments and of the several commissioners thereof."

Assembly bill number 2324, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo.'"

Assembly bill number 2694, entitled "An act to enable the towns and cities of this State to use the Davis voting machine at all elections therein."

Assembly bill number 2760, entitled "An act to regulate public travel upon elevated railroads in cities of over one million inhabitants."

Senate bill number 183, entitled "An act to amend chapter five hundred and twenty-nine of the laws of eighteen hundred and eighty-seven, entitled 'An act to regulate the hours of labor in the street surface and elevated railroads chartered by the State in cities of one hundred thousand inhabitants and over.'"

Senate bill number 349, entitled "An act to amend section two hundred and seven of article twelve of chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to the public health, constituting chapter twenty-five of the General laws."

Senate bill number 549, entitled "An act to provide for the acquisition of lands for public use between Tenth or Amsterdam avenue and Eleventh avenue and other streets in the city of New York, adjoining and in addition to the land authorized to be acquired by chapter two hundred and forty-nine of the laws of eighteen hundred and ninety, chapter one hundred and two of the laws of eighteen hundred and ninety-three and chapter seven hundred and forty-nine of the laws of eighteen hundred and ninety-four."

Senate bill number 552, entitled "An act to amend the Stock Corporation Law (chapter thirty-eight of General Laws)."

Senate bill number 770, entitled "An act to provide and maintain a nautical school for the State of New York and to merge therein the present nautical school maintained by the board of education of the city of New York."

Senate bill number 875, entitled "An act making an appropriation for the erection of a normal school in the village of Jamaica."

Senate bill number 1095, entitled "An act to amend section sixteen hundred and seventy-four of the Code of Civil Procedure of the State of New York, relating to notices of pendency of action and cancellation of same."

Senate bill number 1127, entitled "An act in relation to the equalization of taxes."

Senate bill number 1141, entitled "An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of the Silversmiths' Company against the State of New York."

Senate bill number 1159, entitled "An act to amend chapter five hundred and seven of the laws of eighteen hundred and eighty-nine, entitled 'An act to authorize villages of the State of New York to establish water rates and collect the same.'"

Senate bill number 1165, entitled "An act to amend article one of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, entitled 'An act in relation to highways, constituting chapter nineteen of the general laws.'"

Senate bill number 1174, entitled "An act to provide for the reimbursement of the expenses and disbursements paid and incurred by the several justices of the Supreme Court who are designated as justices of the appellate division of that court."

Senate bill number 1262, entitled "An act to amend the charter of the village of College Point, being chapter two hundred and fifty-nine of the laws of eighteen hundred and sixty-seven, entitled 'An act to incorporate the village of College Point, Queens county,' and the acts amendatory thereof."

Senate bill number 1270, entitled "An act to provide and encourage military instruction in the public schools."

Senate bill number 1406, entitled "An act authorizing the construction of a new iron bridge with double driveways and sidewalks over the Erie canal at George street in the city of Rome."

Senate bill number 1168, entitled "An act to alter the map of the commissioners appointed to lay out a plan for roads and streets in the towns of Kings county."

Senate bill number 1322, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special local laws affecting public interests in the city of New York."

The following bills were not acted upon by the cities which they affect, as required by the Constitution.

Assembly bill number 517, entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse and to revise and amend the charter of said city.'"

Assembly bill number 2418, entitled 'An act for the relief of the Jewish Theological Seminary Association of the city of New York."

The following bills were not returned by the mayors of the cities which they affect, within the fifteen days specified by the Constitution:

Assembly bill number 2062, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon.'"

Assembly bill number 2485, entitled "An act to authorize the supervisors of Niagara county to appoint side-path commissioners and to expend the funds raised by the taxation of 'cycles in the construction of side paths for 'cycles."

Assembly bill number 2561, entitled "An act to permit experiments for developing the power of Niagara river at the city of Buffalo, upon plans to be approved by the State Engineer and Surveyor, known as the Mather plans."

Senate bill number 901, entitled "An act to amend section two hundred and thirteen, title nine, chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon.'"

Senate bill number 1399, entitled "An act relative to the improvement of certain streets in the city of Troy and making provision for the payment of the expense thereof."

The following bills were not accepted by the cities which they affect:

Assembly bill number 723, entitled "An act to amend chapter four hundred and sixty-one of the laws of eighteen hundred and seventy-one, entitled 'An act to revise the charter of Long Island City.'"

Assembly bill number 905, entitled "An act to amend chapter six hundred and seventy of the laws of eighteen hundred and ninety-two, entitled 'An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy, entitled 'An act to amend an act to incorporate the city of Troy, passed April twelve, eighteen hundred and sixteen,' and the several acts amendatory thereof, and also to amend other acts relating to the city of Troy, and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and the other acts relating to the city of Troy and its departments, and to the inferior local courts therein.' "

Assembly bill number 1351, entitled "An act to amend section six hundred and ninety of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' amended by chapter two hundred and sixty-two of the laws of eighteen hundred and eighty-seven and chapter three hundred and sixty-five of the laws of eighteen hundred and ninety-two, relative to park police and their appointments."

Assembly bill number 1603, entitled "An act for the relief of Mary T. Bates."

Assembly bill number 1735, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to arrears."

Assembly bill number 1758, entitled "An act to authorize the formation and maintenance of free public employment bureaus, and making appropriations therefor."

Assembly bill number 1779, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn, relating to the powers of the Board of Audit.' "

Assembly bill number 1816, entitled "An act to amend chapter four hundred and thirty-eight of the laws of eighteen hundred and eighty-one, entitled 'An act in relation to the justices' courts of the city of Albany abolishing the fees thereof, establishing the fees of attorneys therein, increasing the jurisdiction thereof and having reference to the manner of procedure therein."

Assembly bill number 1929, entitled "An act to amend sections six, seven, eight, ten, eleven and thirteen of chapter six hundred and two of the laws of eighteen hundred and ninety-two, entitled 'An act to secure the registration of plumbers and the supervision of plumbing and drainage in the cities of the State of New York.'"

Assembly bill number 2077, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relative to the powers and duties of the Common Council."

Assembly bill number 2301, entitled "An act to amend section seven hundred and eight of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' so as to secure the more efficient cleaning of the streets, avenues, public places, wharves, piers and heads of slips in said city."

Assembly bill number 2444, entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse,' and to revise and amend the charter of said city."

Assembly bill number 2445, entitled "An act to amend section five of chapter four hundred and thirteen of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for the construction of a drawbridge over the Harlem river in the city of New York and for the removal of the present bridge at Third avenue in said city,' as amended by chapter five hundred and forty of the laws of eighteen hundred and ninety-four."

Assembly bill number 2446, entitled "An act to amend sections sixteen hundred and fifty-four and sixteen hundred and sixty-seven of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York.'"

Assembly bill number 2514, entitled "An act to amend chapter six hundred of the laws of eighteen hundred and ninety-three entitled 'An act to reduce, confirm and levy certain assessments in the city of Albany, to provide for the payment thereof, and in relation to sales thereunder,' as amended by chapter six hundred and twenty-nine of the laws of eighteen hundred and ninety-four."

Assembly bill number 2515, entitled "An act to amend chapter two hundred and ninety-nine of the laws of eighteen hundred and eighty-five, entitled 'An act to establish a police pension fund for the city of Albany,' as amended by chapter four hundred and forty-two of the laws of eighteen hundred and eighty-six and chapter five hundred and twenty-one of the laws of eighteen hundred and eighty-seven."

Assembly bill number 2534, entitled "An act to amend sections two hundred and fifty and two hundred and seventy-two (relating to the police department) of the New York city consolidation act of eighteen hundred and eighty-two."

Assembly bill number 2744, entitled "An act to amend chapter seven hundred and fifty-one of the laws of eighteen hundred and ninety-four, entitled 'An act to amend chapter five hundred and fifty-five of the laws of eighteen hundred and eighty-five, entitled 'An act to regulate and fix the pay or compensation of members of the police force who are police surgeons or doormen in all cities of this State having, according to the last census, a population exceeding fifteen hundred thousand.' "

Assembly bill number 2752, entitled "An act to make provision for a public park in the thirty-first ward of the city of Brooklyn, the acquisition of land for such park and the payment of all expenses connected therewith from moneys to be raised by bonds for local improvements."

Assembly bill number 2791, entitled "An act to amend section five hundred and three of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as since amended, and relating to the filing of building plans with the department of buildings of said city."

Senate bill number 644, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo.'"

Senate bill number 655, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the department of police and excise."

Senate bill number 671, entitled "An act to amend the charter of the city of Poughkeepsie."

Senate bill number 876, entitled "An act to amend chapter five hundred and forty-four of the laws of eighteen hundred and ninety-four, entitled 'An act to provide for the construction of a bridge over the Mott Haven canal at One Hundred and Thirty-eighth street, in the city of New York.'"

Senate bill number 892, entitled "An act to amend chapter two hundred and sixty-seven of the laws of eighteen hundred and ninety-two, entitled 'An act to create a park commission and to provide for the establishment and maintenance of one or more additional parks in the city of Troy."

Senate bill number 1084, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Senate bill number 1181, entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Niagara Falls.'"

Senate bill number 1185, entitled "An act to provide for certain improvements in the streets, avenues, highways, boulevards and public places in Long Island City, and for the payment for the expenses thereof."

Senate bill number 1186, entitled "An act to amend section sixty of chapter one of title six of the Code of Criminal Procedure of the State of New York."

Senate bill number 1298, entitled "An act to amend the charter of the city of Poughkeepsie."

Senate bill number 1367, entitled "An act to amend subdivision four of section eighty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting the public interests in the city of New York.'"

Senate bill number 1383, entitled "An act to amend chapter four hundred and fifty of the laws of eighteen hundred and ninety-four, entitled 'An act to provide for the annexation to the city of Brooklyn of the town of Flatlands in Kings county.'"

ARMS FOR THE NATIONAL GUARD.

By chapter 600, approved May 10, the Governor was authorized to appoint a board, consisting of three persons, who were charged with the duty of testing, examining and recommending "such arms of modern pattern, consisting of magazine breech-loading rifles, and other implements necessary to supply the National Guard of the State, securing the utmost efficiency by the adoption of such arms as are adapted to the requirements the new tactical manoeuvres contemplate." The act required the board to report the result of its examinations to the Governor, who was authorized to approve or reject its recommendations, and upon his approval of the report, the Adjutant-General was authorized to contract for the purchase of the particular arm or weapon approved, sufficient to equip the military and naval forces of the State, "but not exceeding 15,000 rifles complete for service."

The board was duly appointed and immediately entered upon the consideration of the subject assigned to it by the act. The result of the examination made by the board, its report to the Governor, and his action thereon, are set forth in the following decision rendered by him on the 22d of October, 1896:

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
ALBANY, *October* 22, 1896.

In the Matter of the Selection of Improved Firearms for the Use of the National Guard.—Decision.

By chapter 600 of the Laws of 1895, it was made the duty of the Governor to appoint three citizens of the State as a board of examiners to "test, examine and recommend such arms of modern pattern, consisting of magazine breech-loading rifles and other implements necessary to supply the National Guard of the State, securing the utmost efficiency by the adoption of such arms as are adapted to the requirements the new tactical manoeuvres contemplate." The tests were to be made under provisions and regulations to be prescribed by the Adjutant-General; and the act further provided that "all tests shall be confined to arms of American invention and manufacture." The act required the examiners to "submit to the Governor the result of such test, their findings and recommendations, and upon the approval of such report by the Governor, the duties of such board of examiners shall cease and determine, and the particular weapon recommended by said board shall be adopted for the military and the naval forces of the State;" and thereupon the Adjutant-General was authorized to contract for not exceeding 15,000 rifles as recommended, at not more than $20 each.

Albert D. Shaw of Watertown, Eliphalet W. Bliss of Brooklyn, and Robert H. Thurston of Ithaca were appointed examiners for the purposes of the statute. They filed a report July 10, 1896, unanimously recommending the Savage military magazine rifle for the use of the National

Guard. The minutes of the proceedings of the board were also filed. Several inventors, manufacturers and representatives of other guns filed objections, and a hearing was requested before final action by the Governor upon the report. Such hearing was appointed for October seventh, and on that day the whole subject was discussed at considerable length. It appears that the Adjutant-General furnished for the board regulations for the tests to be made in the selection of a gun, and the board issued and distributed a circular containing those regulations and other rules formulated by them. The minutes of the board show that they held twenty-eight meetings and made numerous tests for the purpose of determining the proper selection of a gun, and apparently gave the whole subject very careful attention.

It is intimated that the examiners were predisposed in favor of the Savage gun and gave its representatives unusual and unfair opportunities to successfully compete with other guns really possessing superior merit; but the evidence submitted to me does not I think warrant the suggestion. So far as appears, the examiners undertook to afford the representatives of all guns submitted to the test an opportunity to show the merits, value and capacities of the weapons, and did not unfairly discriminate against any of them. Twelve guns in all were formally entered and offered for examination; four were withdrawn as incomplete or not entitled to admission to the test, or for other reasons. The examiners state that the date for entering the guns was extended four times in order that all newly invented American magazine rifles might be presented, and that the final date of closing all entries covered the extreme limit asked for by any of the intending exhibitors. Eight of the guns were tested and the examiners report that six of them passed through the severe trials required with marked success.

The approval of the report is also opposed upon the ground that the examiners had no jurisdiction to admit the Savage gun to the test, for the reason that the statute under which the test was made excluded all guns which were not of "American invention and manufacture." In an affidavit filed by Arthur W. Savage, the inventor of this gun, he says that he was born in the city of Kingston, Jamaica, West Indies; that he came to the United States in 1886, and has resided here continuously in the State of New York since that time. In his application for a patent upon the gun, filed April 10, 1889, he described himself as "a subject of the Queen of Great Britain, residing in Bay Ridge, in the county of Kings, in the State of New York." It also appears that he became a citizen about the time of the passage of this act. It seems that before that time he assigned his interest in the patent to J. Morris Childs, Richard S. Reynolds and Edwin H. Risley of Utica, and that the patent was issued to them July 25, 1893. The right of the Savage gun to be admitted to the test was questioned before the board, and they requested the opinion of the Attorney-General upon the meaning of the term "American invention," and he replied that in his judgment the term had reference in this statute to firearms invented and manufactured within the United States. Acting upon this authority the examiners treated the Savage gun as an American invention within the meaning of the law, and thought it could legally be selected and recommended by them. This objection was raised again on the hearing before me, and it becomes necessary to dispose of it because it involves the jurisdiction of the examiners to recommend this particular gun.

It is claimed that the phrase "American invention" means something invented by an American, and that the word "American" in this statute must be limited to a citizen of the United States. If the word is to be given this narrow meaning, the Savage gun may not have been entitled to compete for the designation, for it is conceded that the inventor was not a citizen when he applied for the patent nor when it was issued. The term "American" is used quite frequently in the statutes of the United States and of the different States, as well as in other writings and in common speech, and it has a quite varied meaning. Sometimes it refers to citizens, sometimes to inhabitants, and sometimes to the institutions, prosperity, products, manufactures, literature or art of the United States.

The Supreme Court of Connecticut recently had occasion to consider the meaning of the word in construing the provisions of a will for certain "American widows and orphans." The Court says that the term "American," in the general mind, "now describes the descendants of Europeans born in America, but is applied especially to the inhabitants of the United States."* This does not limit the term to citizenship. Several dictionaries give substantially the same definition, although the word is sometimes limited to natives of the United States. I think the term should be given its ordinary meaning. The Savage gun was invented by an actual inhabitant of the United States, who has since become a citizen. It was manufactured here wholly of American material, and I think it is a gun of "American invention and manufacture" within the fair meaning of the statute.

The relative merits of the Savage gun and other guns were discussed at considerable length on the hearing before me, representatives of each gun claiming for it superior excellence upon the several grounds which the military authorities deemed essential in determining the selection of a proper gun. Under the circumstances, and in view of the action which I have decided to take upon this matter, it is unnecessary to enter into an examination of the merits of the controversy between the Savage and any other gun, or to determine the correctness of the conclusion reached by the examiners. A tabulated analysis of the results of the several tests, made under my direction from the minutes of the board on file, shows that several of the guns were quite close rivals. The decision was properly submitted by the Legislature to the examiners, and upon this review it is not practicable to pass in detail on the various incidents, comparisons and reasons which are set forth in the minutes and report as the foundation of the conclusion reached by the board.

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* See Beardsley v. Bridgeport, 53 Conn. 489.

For several years the Adjutant-General has urged the importance of arming the State troops with the same small arms prescribed for the United States army; and in his report transmitted to the Legislature of 1895, he says that the infantry is still using the old Remington rifle, " a now obsolete weapon," and he recommends that the Legislature " take such steps as may be deemed advisable to impress on Congress the necessity and propriety, in fact the duty, of providing State troops with the new army rifle at the cost of the United States." The Adjutant-General's department seems to be committed to the policy of arming the State militia with the gun used by the regular army, but I am informed that opinions among military men differ as to the wisdom and advantage of such a change at present of arms for our National Guard. At the same session of the Legislature, to which the above report was transmitted, the law was passed providing for the selection of a gun by the examiners whose report is now under consideration. In my annual message to the Legislature of 1895, I called attention to the subject of the inferiority of the arms in use by the State troops and suggested that it would soon be necessary to give " serious and business-like attention to the matter of supplying the Guard with arms of modern pattern, adapted to the requirements of the plan of warfare which their new tactical manoeuvres contemplate and were devised to meet."* The act providing for the investigation of this subject limited the selection of a gun to an American invention, thus excluding the foreign gun which had recently been adopted for use in the regular army. That gun could not be admitted to the test and could not therefore be selected and recommended by the examiners; but although not formally tested, it received the attention of the examiners, and they state that they gave it very careful inspection and study.

When this bill was under consideration I felt some doubt whether it was such a compliance with my suggestion and with the recommendation of the Adjutant-General as should receive approval, and also whether the time was opportune for the expenditure by the State of the large sum involved in a contract which was possible under its provisions; but on account of the agitation of the subject which had been going on some time in military circles, and for the further and very important reason that the action of the examiners could not become effective without the approval of the Governor, I gave the proposed legislation my sanction, reserving, however, the right vested in me by the law to review the whole subject upon the coming in of the report of the examiners.

The statute presents a harmonious scheme of examination and review. The Adjutant-General was properly charged with the duty of prescribing regulations upon which the tests should be made, with a view to the selection of the best gun, and after such examination, the report of the board was to be submitted for approval to the Governor, who is the constitutional head of the military and naval forces of the State,* and as commander-in-chief may be permitted to exercise some general power of supervision over military affairs in addition to the powers specifically conferred upon him by statute. Executive consideration of this report is

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Ante, p. 570.

* Const. 1894, art. 4, § 4.

not I think limited to the mere question of the proper selection of the best gun, but may take broader ground and embrace the whole subject contemplated by the statute. The test of various guns was desirable and is a necessary step in the development of the problem of re-arming the militia, and the value of the test will not be lost even if the result does not become immediately available to the State. The whole subject of proper arms for infantry, not only in this country but among other nations, seems to be at present in a quite unsettled condition, and I am informed that military authorities are engaged in continued and extended discussion and experiment for the purpose of selecting a satisfactory gun.

During the interval since the passage of this law, I have given the subject attention and have been favored with the opinions of many persons of high authority in military affairs; and I am advised that even the Remington rifle, now in use by our National Guard, and particularly the Springfield rifle, in use by the National Guard of other States, is much better for the use of the Guard when called into active service in the State in maintaining peace or suppressing disorders than a magazine gun such as is perhaps contemplated by the statute and the report of the examiners. It is further suggested that a high grade magazine gun is not desirable for the National Guard in time of peace, and that if the militia were called into service by the National Government, new arms would probably be at once supplied, and that only a week or two of exercise with them would be necessary to properly train the troops and enable them to use the new arms with entire satisfaction. The suggestion is also made that even if a magazine arm should be placed in the hands of the militia, they should still retain the arms they now have for use when called out in support of the civil authorities.

I am also advised that the United States Government has on hand about 240,000 Springfield rifles; that they are available for use by the militia, and that a movement has been initiated to furnish them to the several States as desired. In December last a bill was introduced in the Senate authorizing the Secretary of War to issue Springfield rifles to the National Guard of the different States in exchange for other rifles now in use. This bill passed the Senate on the 18th of March last, apparently without opposition, and on the 20th was referred to the committee on militia in the House of Representatives. The bill is now pending in that body and will probably receive early consideration at the next session. The bill was prepared and recommended by the Ordnance Department of the United States for the purpose of securing uniformity in the arms used by the National Guard. If this action by Congress had been taken before the passage of our law, the Legislature would no doubt have deferred consideration of the subject until it became known whether our militia would be supplied with rifles by the National Government without cost to the State. I do not think that the bill now pending in Congress can properly be ignored in the consideration of this report. In view of the probability of the distribution of arms by the National Government, and especially at a time of great business depression and a continued unsettled condition of financial affairs, it would be unwise I think to approve a report which would require a contract for the purchase of arms at a possible expense to the State of $300,000.

For these reasons I have decided not to approve the report.

LEVI P. MORTON.

The bill referred to by the Governor then pending in Congress, which provided for supplying the State militia with Springfield rifles, was passed on the 24th of February, 1897. It authorized the Secretary of War to deliver a sufficient number of the Springfield breech-loading rifles to supply the National Guard of each State in exchange for other guns then in use by such guard.

Acting on this statute the Legislature of 1897, by chapter 393, authorized the Adjutant-General to exchange, without expense to the State, the Remington rifles and carbines then in use for Springfield rifles and carbines to be furnished by the National Government. The exchange also included ammunition for the different guns.

The Adjutant-General, in his annual report to the Legislature of 1898, stated that the exchange had been made, which he considered "an exchange of the greatest value to the guard, and state, as it replaces an arm worn out by service, with a rifle that is new and highly thought of by the best authorities in our own regular army."

See Governor Roosevelt's comment on the Springfield rifles in his annual message of 1899, *post,* Vol. 10, p. 14.

For Governor Morton's reference to arms for the National Guard, see *ante* p. 570.

1896. JANUARY 1. LEGISLATURE, ONE HUNDRED AND NINETEENTH SESSION.

LEVI P. MORTON, Governor.

ANNUAL MESSAGE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *January* 1, 1896.

TO THE LEGISLATURE.— The Constitution of the State provides that the Governor "shall communicate by message to the Legislature, at every session, the condition of the State and recommend such matters to them as he shall judge expedient." Under this mandate it therefore becomes my duty to advise you of all subjects requiring special attention at your hands and to suggest such legislation as my experience and observation in the Executive office leads me to regard as expedient and necessary.

It may be well to note, at the outset, that the present Legislature is the first in the history of the State, composed of two hundred members. By the first Constitution of 1777, an Assembly was created to consist of at least seventy members, and a Senate to consist of twenty-four members, and provision was made for an increase in both branches by a re-apportionment to be made once in seven years; and the Assembly was limited to three hundred, and the Senate to one hundred members.[a]

This scheme of legislative organization continued several years but it was not satisfactory. In 1801 a convention was called for the special purpose of revising that part of the Constitution relating to the Legislature. At that time the Assembly had increased to 108 and the Senate to 43 members. The Convention of 1801 provided for an Assembly of one hundred, with a possible increase to one hundred and fifty, but the Senate was fixed permanently at thirty-two members. When the Constitutional Convention of 1821 met, the Assembly had increased to 126 members. The Constitution then adopted fixed the number of Members of Assembly at one hundred and twenty-eight, and continued the Senate with thirty-two members.[b] No change was afterwards made in the membership of the Legislature until the Constitution of 1894. The Convention which revised the Constitution in that year were of the opinion that a more equitable distribution of legislative representation could be secured by slightly increasing the number of members in each branch. The Assembly was accordingly fixed at one hundred and fifty, and the Senate at fifty members, making an increase in the Assembly of twenty-two, and in the Senate of eighteen.[c] This makes an aggregate increase of twenty-five per cent., but it is believed that neither branch will be unwieldy, and that the Legislature is not now too large for a representative body in a State with such a great and diversified population, and such immense interests as New York possesses. Members of Assembly have always been elected annually, but prior to 1847 Senators were elected for four years.

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[a] Const. 1777, §§ 4, 5, 11, 12.

[b] Const. 1821, art. 1, § 2.

[c] Const. 1894, art. 3, § 2.

All of the three co-ordinate branches of the government, namely the legislative, the executive and the judicial, were modified by the new Constitution. The Legislature was enlarged, the term of office of the Governor was again reduced to two years, and the judicial system was materially re-organized. Various local courts were abolished, and merged in the Supreme Court, and additional justices were provided, so that now this court consists of seventy-six justices, twenty-two of whom compose a branch known as the "Appellate Division." With the exception of the section relating to prison labor, the new Constitution goes into full operation today; and we begin a new era of Constitutional government.

We cannot be insensible to the fact that our imperial position in the family of States gives a peculiar and conspicuous interest to our legislation and our constitutional changes. Government by "the people" in America was first proclaimed in the colony of New York, and our position of primacy has since been consistently maintained. Our State has been the pioneer in many important reforms, in the general body of law, especially in procedure, and the administration of justice; in social and domestic relations, and in commercial and business methods; and a broad constitutional expansion and enlargement have gone hand in hand with the gradual development and improvement of our commonwealth. The prominence of our position imposes a corresponding responsibility, and it should be the aim of all concerned in the enactment of laws to make our legislation fairly reflect the manners, customs, and social condition of our people, and at the same time embody those wise principles of government which make for the greatest happiness of the State.

THE VENEZUELAN QUESTION.

The doctrine formulated by President Monroe, and which has since borne his name, has become so well established in American national policy that there is no room for doubt as to the opinion of our people concerning it. New York now has a population nearly equal to that of the entire Union when Mr. Monroe became President, and our peculiar geographical position, the location within our borders of the American metropolis, and the vast and complicated commercial interests of our State, justify us in feeling an especial concern in the present unhappy agitation. Any disturbance of the existing friendly relations between the United States and Great Britain cannot fail to have a serious effect. Because of the possible baleful consequences of such disturbance, I deem myself justified in making this reference to the larger affairs of the nation, in which we feel such a peculiar and vital interest.

I cannot believe that the relations between our country and Great Britain will be ruptured or seriously impaired by the misunderstanding now existing between that country and Venezuela concerning the proper location of the boundary line of their possessions in South America. Arbitration affords a simple, humane and honorable method of determining national disputes; and it is scarcely conceivable at this period of the world's history that any great nation is willing to take the responsibility of the needless sacrifice of human life, and the wanton destruction of property, which would be the inevitable result of an armed conflict.

THE STATE FINANCES.

From the figures furnished by the Comptroller I am gratified to be able to announce that the finances of the

State are in a satisfactory condition. The State tax for the current fiscal year is 3 24-100 mills, for the following purposes:

	Mills.
For schools, per chap. 808, Laws of 1895	.94-100
For canals, per chap. 282, Laws of 1895	.20-100
For canals, per chap. 808, Laws of 1895	.16-100
For general purposes, per chap. 808, Laws of 1895	.94-100
For State care of insane, per chap. 693, Laws of 1895	1.
Total	3 24-100

The above tax of 3 24-100 mills on the present valuation, $4,292,082,167, will yield $13,906,346.23, distributed as follows:

General tax	$4,034,557 24
Schools	4,034,557 24
Canals	1,545,149 58
State care of insane	4,292,082 17
	$13,906,346 23

The amount received from the corporation and organization tax for the fiscal year ending September 30, 1895, was $2,115,807.85. The amount received for the fiscal year ending September 30, 1894, was $1,796,640.87; increase, $319,166.98.

When the present Comptroller assumed office 2,152 corporations were paying taxes. Since that time, 2,793 corporations that had hitherto for various causes escaped taxation have been added to the list of taxpayers. But during the same period, in consequence of the depression of business, 869 old corporations, or over 40 per cent. of the entire number, went out of business for one cause or another. This loss, however, was more than made good by the new additions, and the total number of corporations paying taxes October 1st was 4,051, against 2,152 in 1893 on the corresponding date.

The amount received from the tax on inheritances for the fiscal year ending September 30, 1895, was $2,126,894.61. The amount received for the fiscal year ending September 30, 1894, was $1,688,954.20; increase, $437,940.41. This is the largest amount of transfer taxes collected in any one year since the law went into effect, except 1893, when four estates paid $1,096,036.97 taxes, and fifteen estates paid more than half of the entire amount collected. Last year only one estate paid in excess of $72,613.

The receipts and payments for the year were as follows:

Aggregate balance in the treasury of all the funds of the State, October 1, 1894	$1,548,286 57
Aggregate receipts during the fiscal year ending September 30, 1895	20,319,881 35
Total receipts and balances	$21,868,167 92
Deduct payments during the year	20,457,081 93
Balance in the treasury September 30, 1895	$1,411,085 99

The total payments for the fiscal year ending September 30, 1895, for charitable purposes, that is, for the support of asylums and hospitals for the deaf, blind, insane, idiotic, epileptic, houses of refuge, reformatories, Soldiers and Sailors' Home, etc., was $4,212,161.82. The total payments from the State treasury for educational purposes for the fiscal year ending September 30, 1895, was $4,777,792.31.

The causes for the increase in the tax rate for the year 1895 may be briefly stated:

State tax rate of 1895, 3 24-100 mills; State tax rate of 1894, 2 18-100 mills; increase in 1895, 1.06 mills.

The increase in the tax rate, for the current fiscal year, of 1.06 mills is accounted for as follows: Increase in proceeds of tax rate for the State care of the insane on account of the State assuming the care of the insane in New York and Kings counties, and for buildings, etc., $2,906,121.08; appropriations of 1894, not included in last year's tax levy, not available until 1895, and included in this year's levy, $493,150; estimated surplus used last year in fixing tax rate, no surplus being taken into account in this year's levy, $1,089,177.48. Add for compensation of officers and members of the Legislature and for other expenses on account of increased representation under the new Constitution, $100,000. Add for maintenance of new institutions created by Legislature of 1894, $129,000. For the following extraordinary purposes: State Veterinary College, $100,000; Cotton State Exposition, $25,000; Lexow investigation, $67,434.10; State Land Survey, $50,000; Home for Veterans, $25,000; award of Board of Claims in payment of two special awards, $62,000; total, $5,046,882.66.

Had it not been for the increase in appropriations for the care of the insane and other items, mentioned in the foregoing statement, a tax rate of 2.07 mills would have been sufficient, which would have been a reduction of 11-100 of a mill from the tax rate of 1894, and of 1 17-100 mills from the tax rate of 1895.

CARE OF THE INSANE.

It will become the duty of the present Legislature to formulate and pass a law which shall give effect to measures which will complete the plan under which this State fulfills its avowed policy of caring for all the dependent insane who live within its borders. In this great humanitarian reform New York was the pioneer among all the States of the Union, and the success which has attended the progress of the system has already demonstrated the fact that it embodies the wisest course toward the patients themselves and involves a lessened aggregate cost to the people. In my annual message to the Legislature of 1895, I recommended the assumption by the State of the care of the dependent insane of New York and Kings counties, and separate bills were passed unanimously for that purpose.* The act relating to Kings county received the approval of the municipal authorities of Brooklyn and became a law, and on October 1st last, the control and possession of the Kings County insane asylums passed to the State and became subject to the authority of the State Commission in Lunacy. The mayor of New York, however, did not act on the bill (as required by the Constitution[d]) which provided for the transfer to the State of the property of New York county used in the care of the insane, and the measure therefore never came under Executive jurisdiction.[1] The Legislature, however, assuming that the act would be approved, had passed a special tax bill for the maintenance of the insane, which provided also for the anticipated cost of maintenance of the insane of New York county, estimated on the same basis as for the remainder of the State. The tax was duly levied and the money raised will be paid into the treasury and become available for the purpose intended. It will now, however, be impossible to apply it to the cost of such maintenance in New York for more than one-half of the current fiscal year. No reason exists, why the *pro rata* sum of this fund applicable thereto cannot be used for the maintenance of the New York county insane for the unexpired portion of the current fiscal year, and I therefore earnestly recommend that a bill, substantially the same as the bill of last year, be passed at as early a date as possible, to take effect not later than the first of April next. The decision of the Court of Appeals rendered on the 20th ultimo,[e] establishing the right of the State to collect, from the city of New York, taxes levied in 1893, pursuant to the State Care Act of 1890, removes the last legal obstacle to the enactment of a bill for the transfer of New York city's insane to the care of the State.[2]

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* *Ante*, p. 567.

[d] Const. 1894, art. 12, § 2.

[1] See 1895, Governor's memorandum of June 15, giving his reasons for not approving the Manhattan Hospital bill, *ante*, p. 617.

In furtherance of the general plan of harmonizing the system of administration and expenditure at all of these State insane hospitals, which now shelter and maintain upwards of 20,000 inmates, a system of itemized monthly estimates for expenses was devised and authorized by Chapter 214, of the Laws of 1893. It was required that these estimates be prepared in advance, and submitted for scrutiny and revision to the State Commission in Lunacy. The operation of this method during the past two years has demonstrated its wisdom, for its results have been to better the condition of the inmates by securing an improved quality of supplies and treatment, while it has at the same time realized in the first year a saving of $300,000, and during the last fiscal year a somewhat larger amount has been saved to the taxpayers. Prior to this innovation all expenditures for maintenance had been made by the several boards of managers and the superintendents of the various hospitals, without any scrutiny in advance, and were largely controlled, or at least influenced, by local business considerations. Becoming aware, however, a year ago that the expenditures, for buildings, repairs and improvements, had required on the average of some years preceding over $1,000,000 annually, and believing from information submitted to me that under a judicious and economical system a considerable saving might be effected in these accounts, with equally good and possibly better results to the insane, I took occasion in my annual message to recommend a special tax sufficient to meet the actual needs of all the State hospitals, and provide accommodations for the annual increase in the number of dependent insane.* Before acting upon this recommendation the Legislature, very properly, in view of the magnitude of the work and the sums involved, made an exhaustive inquiry by a joint committee into the general subject of the administration of the Lunacy laws by the State Commission in Lunacy. That joint committee in its brief final report announced that it had found "nothing but what is commendable and meritorious" in the administration and methods of the Commission, and that "the Commission in Lunacy is entitled to public confidence, is honestly and capably discharging its important functions, and merits the esteem and favor of the people of the State."

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[e] See People v. Fitch (1895), 148 N. Y. 71.

[2] Chapter 2, passed January 28, transferred to the State the New York City asylums for the insane, and established the Manhattan State Hospital. The transfer was to be made within thirty days after the passage of the act.

Accordingly the Legislature last year authorized a special tax levy so as to cover the cost of new structures, renewals, and other extraordinary improvements for the State hospitals, and for general maintenance and ceased making special appropriations for each hospital. In the same bill a provision was enacted which empowered the State Commission in Lunacy to fix and establish practically uniform schedules of salaries and wages for all officers and employes in the various hospitals. This provision will cover the regulation of the compensation of nearly 4,000 employes and about 200 officers when the transfer of the New York County insane shall have been effected. There has been in the past much dissatisfaction regarding the inequality of salaries, giving rise to disorganization and a constant desire on the part of employes to secure transfer to duty in the hospitals where the most liberal wages were paid. The power given to the Commission to adjust and equalize these differences has

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******Ante*, p. 566.

wrought much good to the service. In dealing with this difficult question, as with many others, the Commission has met with much opposition, but with commendable steadfastness to duty it has invariably succeeded in conserving the public interests. The Legislative Joint Committee in its report already alluded to, says "The Commission is animated by a proper spirit of zeal and earnestness in its work, and is bringing to it intelligence, energy, courage and good judgment in a degree worthy of this public commendation. Its present composition, (on the triple-headed plan) is calculated to insure efficiency in performance of duty and success in administrative results, in a larger measure than could, perhaps, be attained by any different arrangement." It has seemed to me proper to deal at some length and in detail with this subject, not only because the department directed by the State Commission in Lunacy, which is now a constitutional body, is devoted to humanitarian work in behalf of a large population, but for the reason that this branch of the public service actually consumes and requires larger annual appropriations of money than any other department or commission in the State. And I recommend that the course pursued by the last Legislature in imposing a tax sufficient to meet the cost of necessary enlargements of the existing State hospital establishments, of needed repairs and improvements and of supplies and maintenance. be continued. If found necessary further safeguards should be provided to secure the paramount advantage of the State, as a whole, rather than the interest of any locality in the expenditure of the vast sum now annually required.[8]

PRISON LABOR.

A very important feature of the Constitution of 1894 is found in article 3, section 29, which requires the Legislature to provide by law " for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after January 1, 1897, no person in such prisons, penitentiaries, jails and reformatories shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation wherein or whereby his work, or the product or profit of his work shall be farmed out, contracted, given or sold to any person, firm association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work and that the products of their labor may be disposed of to the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State or any political division thereof." By section 11 of article 8 of the Constitution the Legislature was directed to provide for a State Commission of Prisons, which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors. In obedience to these requirements of the Constitution the Legislature of 1895 provided for the establishment of a Commission composed of one member from each of the eight judicial districts of the State, to be appointed by the Governor, within ten days after the passage of the act (chapter 1026, Laws of 1895), by and with the advice and consent of the Senate. This Commission was directed to visit and inspect all of the institutions used for the confinement or detention of persons as provided in the amendment to the Constitution, to obtain certain statistics and information, and to report the same to the Legislature, and to devise and recommend a system for the employment of convicts, in accordance with the Constitutional requirements.

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[8] The policy here outlined was continued by chapter 944, which levied a tax of one mill on a dollar for the support of the insane.

The Commission was duly appointed on July 25, 1895, and soon thereafter organized and entered upon the discharge of its duties. It has labored, I believe, with intelligence and fidelity, and the full report of its observations, examinations and recommendations will be submitted for your information. The Commission finds that former and present systems of farming out the labor of convicts under contract, and of manufacturing goods and wares on State account for sale in the open market, were both unprofitable to the State. They report that these methods materially interfered with the business of manufacturers and their employes, by disturbing the market, and by reducing prices, to the extent that some similar industries were injured seriously or driven from the State altogether. To remedy these conditions, the Commission will report that it is practicable to keep the prisoners employed at labor for the State, and to supply the public institutions with the products of prison labor, and the general features of a plan for such employment of the convicts will appear in the report. There has heretofore been no general system of management adaptable or adapted to all of the prisons; the State prisons are under the control of the State Superintendent; the reformatories are controlled by boards of managers; the penitentiaries, county jails and city prisons are under the direction or management of county or municipal officers or boards. The logical outcome of this diversified management, was correspondingly diverse systems or rather methods, frequently leading up to conflicts and rivalry, with more or less detrimental results to the inmates and to the public interests. An instance of this is found in the fact that in the various prisons of this State there is to be found a large number of persons who committed crimes and were tried and convicted in other States, but who are actually held here as "boarders," on a stipulated rate per diem, which is paid by the authorities of the State from which they are received, or by the United States Government, which has no prison whatever for the confinement of persons convicted of violating the Federal Statutes. A keen competition is at present maintained between the authorities controlling these prisons and penitentiaries, to secure the privilege of keeping these convicts, who are in all respects foreign to our State.

Under the authority conferred upon the new Commission by the Constitution, all of the penal or punitive institutions may be brought under one harmonious system. A revision of the existing Statutes relating to prisons is requisite to accomplish this very desirable object, and to carry into effect the commands of the Constitution. Inasmuch as the employment of convicts or the sale of the products of their labor in competition with the labor and enterprise of the general public is forbidden after January 1, 1897, it is incumbent upon the Legislature to enact laws at this session which will give effect to the new provisions of the organic law. The Commission has pursued its inquiries with great care and I commend its detailed report and recommendations to your thoughtful attention.[4]

INSANE CRIMINALS AND CAPITAL PUNISHMENT.

There are two other subjects having relation to the prison system of the State which are worthy of your attention, and to which reference is here made with a view of bringing them directly to your notice. The first of these is the necessity of enlarging the existing accommodations for insane criminals. The State Hospital at Matteawan, designed and built for this class of inmates, has been occupied only three years, but it is found too small for its uses. The old asylum at Auburn contained only about 250 inmates, but this new hospital was built with a capacity for 550 patients. It already has 534 inmates, and with the rapid ratio of increase will be overcrowded within a few months. The institution is under the control of the Superintendent of State Prisons. Its inmates comprise three classes, viz: First, persons who are adjudged to have been insane when they committed crimes, and who are therefore legally irresponsible, but are committed to the institution by the courts for safe custody. Second, persons who have been convicted of crime and have become insane while undergoing sentence in the State prisons and penitentiaries. Third, persons of the latter class whose terms of original sentence have expired, but who are detained because they are still insane.

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[4] Chapter 429, approved May 4, amending the Revised Statutes, prohibited contract labor in prisons, provided for the employment at hard labor of all prisoners confined in prisons, penitentiaries and reformatories, according to grades established by the act; required prisoners to be employed "for the State or a political division thereof, or in productive industries for the benefit of the State or the political divisions thereof or for the use of public institutions owned or managed and controlled by the State or the political divisions thereof," and contained numerous regulations of an administrative character intended to carry the new policy into effect. The act prohibited the prison authorities from receiving any prisoners convicted in United States courts outside of New York, but authorized the reception of prisoners sentenced by United States courts in this State for terms of one year or more, on contracts to be approved by the Superintendent of state prisons.

It is urged by the State Commissioners in Lunacy and by the Superintendent of State Prisons, that there should, as a matter of public policy, and of physiological propriety, be a separation of the convicted and unconvicted classes. To this end, as well as with a view of relieving the congested condition of the hospital at Matteawan, I recommend to your consideration the erection on the State lands adjoining the Clinton State Prison at Dannemora, of a plain and substantial asylum, to accommodate insane convicts undergoing sentence, and such of those who have served their sentences as it is not deemed advisable to retain in the same building with those who have not been convicted. The location of this building in the mountain region at Dannemora has much to commend it, on account of health, isolation, and security of the inmates. The State owns the required site, and the stone for building, timber and lumber can be procured from other adjacent State lands at the cost of cutting and hauling, and the work of constructing such a building could be almost wholly performed by the convicts of

Clinton Prison. By this plan there would be a large saving in cost, with the advantage of affording employment for the prisoners.[5]

The second branch of this topic which I desire to bring to your attention relates to an isolated prison house, to be erected for the confinement and execution of persons condemned to death. It is the opinion of the wardens of the State prisons that the confinement within those prisons of a number of condemned convicts awaiting execution has a depressing and injurious effect upon the morale of the other prisoners. A further important reason urged for the erection of such a building is that an approved electric plant could be installed while all the other needed requirements of such an establishment could be specially provided. At present there are three sets of electric apparatus, one in each of the State prisons, but no one of which has battery power or mechanical equipment sufficient to meet possible emergencies or accidents. So long as capital punishment is sanctioned by the law of the State, and inasmuch as the electrical mode of inflicting the penalty is believed to be the most humane, it seems proper that every measure should be adopted to inflict the penalty with the greatest certainty, privacy and celerity. It is suggested that the proposed capital prison should be erected in a central part of the State, convenient of access by railway from all other localities.

THE STATE PRISONS TO-DAY.

The Superintendent of State Prisons will also give you the results of his experience and observation in the management of the three State prisons proper. He reports that there were on November 30, 1895, a total of 2,062 prisoners in the three prisons, employed in twenty-two separate industries, being an average of ninety-four prisoners to each industry. The law of 1889, under which labor is now carried on in these prisons, is the best that has yet been devised, both as to the results attained by the employment, and by the limitation which it has imposed upon competition with private enterprise and industry. Whatever system may be adopted under the new Constitutional restrictions must be based upon the principal that the labor on which the convicts are employed is useful and productive. This is necessary to their mental and physical well-being, and if a law can be enacted which will compel the public institutions of the State and its political subdivisions to buy from the prisons everything which they require for use, and which can be manufactured by the labor of the prisoners, then, in the judgment of the Superintendent, a sufficient amount of work of a desirable kind can be provided to keep the working force of all the prisons, penitentiaries and reformatories employed. But the larger proportion of the articles required represents the product of but a few trades, and on these trades the burden of competition would probably fall unfairly. It is important that, in the effort to diminish or do away with prison labor competition, as contemplated by the Constitutional amendment,[f] such competition as must necessarily result be distributed amongst the largest possible number of avocations. It is manifest, nevertheless, that some trades can never be subjected to the competition of prison labor.[g]

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[5] The supplemental supply bill, chapter 949, appropriated $25,000 for the erection of a building at Dannemora adapted to the requirements of 300 insane convicts. The work, so far as practicable, was to be done by convict labor.

THE CANALS.

The Legislature of 1895 passed a law providing for submitting to the people, at the general election in that year, the proposition to issue bonds of the State not to exceed nine million of dollars, for the improvement of the Erie, the Champlain and the Oswego canals by deepening the Erie and Oswego canals to a depth of not less than nine feet and the Champlain canal to seven feet of water, and also lengthening and improving the locks, and strengthening the walls of the canals. The act was approved by the people by a very decisive vote, and the State was thereby committed to the improvement contemplated by the law. This law requires the Legislature annually to impose a tax of thirteen hundredths mills upon each dollar of valuation of real and personal property in the State subject to taxation, the proceeds of which, after paying the interest due upon the bonds, shall be invested by the comptroller, under the direction of the commissioners of the canal fund, and together with the interest arising therefrom shall be devoted to the sinking fund created for this purpose. Four millions of dollars were appropriated by the act, and upon the sale of the bonds will be immediately available. The deepening and enlargement contemplated will, doubtless, greatly increase the capacity and usefulness of the canals. The greater depth of water, and the strengthening of the embankments, walls and locks which will be effected will permit a largely increased application of steam power, and thus not only admit vessels of greater draft and cargo capacity, but enable them to be moved with increased speed.

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[f] Const. 1894, art. 3, § 29.

[g] See note 4.

The recent experiments with electric motors for canal boat propulsion made at the western end of the Erie canal, were so successful in character and results as to lead to the belief that when the system is applied to the entire canal it will increase its traffic capacity by at least thirty-five per cent. Viewing as a whole the many considerations embraced in this subject it may safely be suggested that it is one of great importance, and not only merits but will doubtless receive your most earnest attention.

I am informed that since 1883 the first year in which the canals were operated free of tolls, the average annual expenditure for their maintenance has been about one million dollars. Aside from the special improvement contemplated by the act above mentioned, the usual appropriation will probably be needed for ordinary maintenance.

Before taking leave of this subject, it is not amiss for me to express gratification at the fact that the administration of the canal system, during the past year, has been such as to win the approval of the people whose business interests are directly connected with the canal service. The old system of annoyances and the compulsory tribute levied by canal employes upon traffic have entirely ceased and every facility which can properly be extended to the business community is rendered by the present service.

PUBLIC EDUCATION.

I am informed by the State Superintendent of Public Instruction that the public school system of our State has shown steady growth and improvement during the past year. There has been a marked increase in the professional spirit of teachers; a deeper interest on the part of the public in the welfare of the schools and a greater activity in providing better school accommodations. These are hopeful indications.

The Compulsory Education Law which went into effect January 1st, 1895, has been complied with throughout the State with a degree of unanimity which proves the interest which our citizens are taking in the question of our public schools. The biennial school census, which has just been completed, reveals the fact that it is being enforced in the right spirit and for the best interests of the schools in nearly every section of our commonwealth.

At the last session of the Legislature you wisely provided that the United States flag should be displayed upon every school building in the State. This patriotic requirement has met a ready response, and from nearly every school building in the State this object lesson of patriotism is daily displayed.

The biennial school census taken in accordance with your requirement of last year in all of the cities and villages of the State exceeding ten thousand in population, has revealed the necessities for additional school facilities and other defects in the system which you will be called upon to remedy during the present session.

While I am aware of the fact that upwards of four millions of dollars raised by direct State taxation is annually expended in the maintenance of our magnificent public school system, and that local taxation adds to this amount until its aggregate is upwards of twenty-one millions throughout the State at large, I am convinced that no expenditure is made in our State which makes for good citizenship so much as that which you will be called upon again to incur for the support of our public schools. The Empire State leads the Union in the magnitude of its provisions for the public schools.

The past year witnessed the occurrence of the one hundredth anniversary of the inauguration of the free school system in the United States under the administration of Governor George Clinton. The first act, chapter 75, Laws 1795, provided that the sum of £20,000 should be annually appropriated, for the term of five years, "for the purpose of encouraging and maintaining schools in the several cities and towns in this State." The growth of the public school system since that date may be estimated by reference to the present expenditure for common school purposes above noted.

The Legislature has been uniformly generous in the provision which it has made for the schools of our State, and it is earnestly hoped that this spirit may continue to actuate you to the end that with our great resources, our unrivaled advantages, and the intellectual equipment of our people, we may continue to lead in educational development.[6]

CIVIL SERVICE.

There has been a distinct and gratifying advance in the administration of the Civil Service law during the past year. Article 5, section 9, of the new Constitution brought into the State classification the Department of Public Works and the Prison Department, which of themselves added a large number of employes to the classified service. This amendment also established a new standard of classification by providing for competitive examinations wherever practicable. In pursuance of this provision many offices have been brought into the competitive schedule that were, theretofore, either exempt or filled by non-competitive examinations. This schedule now includes nearly every character of service in the State, and the result of the examinations held justifies a still further extension of this principle.

The expenses of this branch of the public service have been very much augumented by reason of the extension above mentioned and will be further increased when the classification is extended to counties and villages, as seems to be required by the Constitution. The appropriation of money remains substantially as it was when the original law passed, while the work of the department has greatly increased, and the last appropriation was exhausted before the beginning of the fiscal year. It is necessary that adequate appropriation be made in order that the provisions of the new Constitution may be carried out.

The adoption of the Constitutional amendment relative to Civil Service has embodied in our fundamental law the principal that appointment and promotions in the public service shall be based solely upon fitness. This principle is now beyond discussion, and it only remains for the Legislature to pass such laws as shall provide for any defects in the present statutes. The State of New York now occupies an advanced position in Civil Service reform, and the friends of that movement, in their recent national convention, gave gratifying recognition of the fact.[7]

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[6] Chapter 264, passed April 15, amended the consolidated school law of 1894, by including a provision authorizing a district tax for the purpose of defraying the expense of transporting children residing in the district to a school in another district.

THE BALLOT LAW.

The ballot law enacted by the last Legislature, and under which the general election of 1895 was held, differed in many respects from any hitherto put into operation. It appears to have met, generally, the approval of the people, though, as was to have been expected, the practical use of the system developed some features which seem to require amendment. The law should be amended in regard to the provision applying to cases where two or more persons are standing as candidates for the same office, so as to render it less difficult for the voter to express his exact choice, and thus diminish the danger of losing his vote. The provisions of the pre-existing election law in relation to the duties of election officers, which were not revised by the act of 1895, also seem to require amendment, to the end that the duties and powers of these officers shall be defined with more precision. This is especially the case in regard to the duties of inspectors of elections. It appears to be somewhat strange, and is indeed surprising, that in many counties of the State, there should have been few, if any, ballots rejected for errors of the voters, while in the cities of New York, Brooklyn and Buffalo, the ballots rejected as defective were numerous. The provisions in regard to nominations by parties and independent bodies can doubtless also be revised in the interest of the voters. A careful and painstaking revision of the whole act in the directions here indicated should render the present law one of the most effective, fair and simple that can be devised, and the Legislature holds no higher or more sacred power, and owes no more important duty to the people, than to perfect a law which shall preserve the integrity of the suffrage and facilitate its just operation.[8]

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[7] Chapter 821, approved May 21, further amended the veterans' preference act of 1884, chapter 312, by prohibiting the removal of a veteran holding a position in the State service, or in any city, county, town or village, "except for incompetency or misconduct shown, after a hearing upon due notice, upon the charge made, and with the right to such employee or appointee to a review by writ of certiorari." The act made it a misdemeanor to refuse to allow the preference guaranteed to a veteran, or to reduce his compensation for the purpose of compelling his resignation, and authorized the veteran to maintain an action for damages, or proceed by mandamus to right the wrong inflicted upon him by such refusal of employment or reduction of compensation.

THE EXCISE QUESTION.

The question of regulating the sale of intoxicants will come before you for action, and it is expected that many different measures will be offered for your consideration. I regard it as my duty to recommend such legislation as will measurably reduce the number of places in which intoxicating beverages shall be sold throughout the State. Statistics show that there is a larger number of saloons in this State, in proportion to population, than in any other whose statistics are available. Public opinion does not concur in the desirability of such distinction for our State. It is charged that the present Excise Law is a measure favorable to the liquor interests only; that private property is not protected from the aggressions of saloon influence, and that violators of the law have comparative immunity from the penalties which it prescribes. The latest complete returns of population and of retail licensed drinking places in eight States show:

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[8] A revised election law, chapter 909 was passed at this session.

Chapter 339, passed April 21, authorized cities and towns to use the Davis automatic ballot machines at all elections.

	Population census 1890.	Retail licenses 1892.	Ratio.
New York	5,981,984	40,259	150
Pennsylvania	5,248,574	12,738	421
Massachusetts	2,233,407	5,124	436
Michigan	2,089,793	8,449	248
Illinois	3,818,536	18,406	205
Ohio	3,666,719	16,208	226
Georgia	1,834,366	2,125	863
Alabama	1,508,073	1,169	1,204

The average number of saloons in the United States, including the Prohibition States, is one to each 278 of the population. Excluding New York State, the seven States above mentioned average about one retail licensed place per 317 inhabitants. I fully recognize the fact that while laws can do much toward the proper restriction and regulation of the liquor traffic, they cannot cure all the evils incidental to it. Nearly every conceivable method of dealing with it has been experimented with and tried practically in various nations, or the States of our Union. I am therefore disposed to recommend that the Legislature endeavor to formulate a law which shall, as far as practicable, embody the best features of the liquor laws now in successful operation in the various States, with a consistent aim toward reduction of the number of saloons in this State.[9]

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[9] The subject of traffic in intoxicating liquors was included in the liquor tax law, chapter 112, which established a new policy. The act created a state department of excise, to be under the supervision of a commissioner appointed by the Governor and Senate. Local boards and commissioners of excise were abolished, and certificates authorizing the traffic in intoxicating liquors were to be issued by the State Commissioner of Excise, by the special deputy commissioners in certain counties, or by the county treasurer according to conditions specified in the act. One-third of the amount received for liquor taxes, and also for fines and penalties, less the expense of collection

ROAD IMPROVEMENT.

The subject of Road Improvement becomes more important year after year, and is attracting steadily increasing attention among its people. In September last a National Good Roads Conference was held at Atlanta, Georgia, and delegates were sent to it from a large number of States. New York was represented by a delegation whose members carried credentials which I granted to them upon the request and recommendation of various public bodies interested in the movement. A special committee on Good Roads, which was also appointed by me with a view of inquiring into and considering this question, will make its report direct to your body. That report is believed to be satisfactory to the friends of road improvement, and will convey recommendations of measures for your consideration, which comprise a progressive and comprehensive plan of improvement of the public highways. I am not unmindful, however, of the fact that though there is a united popular sentiment as to the desirability of a good system of roads and that there is a common interest in the common highways, there is a radical divergence of opinion as to the method of raising the funds necessary to provide such a system of travel and intercommunication. It is hoped that the Legislature will deal with this question in a broad-minded, yet conservative and just way, so that the least possible injustice may be inflicted upon either individuals or

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was to be paid into the State treasury, and the other two-thirds to the city or town in which the business was to be carried on.

This act was sustained in People ex rel. Einsfeld v. Murray (1896), 149 N. Y. 367, in which the court held, among other things, that the act was not a special city law under the Constitution, article 12, section 2, and that it was not necessary to send it to any city for approval.

See also Kresser v. Lyman (1896), 74 Fed. 765; Re Livingston (1897), 24 App. Div. 51; Re Lyman (1899), 46 App. Div. 387, aff'd 163 N. Y. 552; People ex rel. Bassett v. City Prison (1896), 6 App. Div. 520; Re Cullinan (Kray Certificate) (1903), 82 App. Div. 445; 97 App. Div. 122.

An act passed in 1903, chap. 486, provided for an equal division of the net revenue from the liquor tax law between the state and the locality.

communities in seeking and securing "the greatest good for the greatest number." The mercantile and agricultural communities are obviously most deeply interested, and in some respects their interests, or at least their purposes, and the methods of accomplishing those purposes, are at sharp variance. Still another important, though quite modern interest, is the large and increasing community of wheelmen. In dealing with this question you may consistently take into incidental consideration the subject of employing the State and county convicts in public road making, as a means of compliance with the constitutional amendment* relating to prison labor.[10]

STATE FOREST AND GAME PRESERVE.

The policy which has been recently inaugurated of purchasing lands within the Adirondack Forest Preserve is one that is giving satisfaction to the people, and should receive the consideration that its importance deserves. Unless these lands are acquired within a reasonable time, they can only be obtained at higher cost many years hence. The preservation of this vast wilderness in its present condition means the conservation of the greatest water-shed in this State, and one of the most important in this country. The rivers that have their source in this region depend upon this forest for their supplies. The woods and the mountainous character of this picturesque region also render it one of the best sanitariums in the world.

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* Const. 1894, Art. 3, § 29.

[10] Chapter 304, added to the Penal Code a section, 654a, which made it a misdemeanor to place on any public thoroughfare specified articles or substances with intent to prevent the free use of a cycle thereon or which might puncture any cycle tire or injure any person using such cycle.

Chapter 423, passed April 29, was enacted to preserve "forever the New York and Albany post road as a State public highway." Except with special limitations, public authorities were prohibited from authorizing the use of such road by railroad companies. As to good roads, see 1890, *ante*, vol. 8, p. 1041.

It is generally believed that the game laws of the State need amendment, to the end that better protection of deer in the Adirondack region may be secured. Unusually large numbers of deer have been killed during the past season, and if this easy slaughter is not checked these animals will soon become extinct in this State. Two remedies are proposed by persons who are familiar with this question: First, a shorter season in which deer may be killed; and second, the prohibition of hunting deer with hounds and "floating." It is claimed by competent authorities that the hounding of deer and driving them into the lakes and ponds where they are easily killed, is an unsportsmanlike butchery of a fine game animal. In view of the importance of this matter, it will be wise to give due attention to the remedies that will be proposed for the preservation of deer in the great Adirondack forests.[11]

The Superintendent of the State Land Survey reports that the survey of the State lands has been prosecuted during the year in a manner insuring the best practical results as well as scientific accuracy. The chief assistants employed have been representatives of the best engineering talent of the State, men whose work has given them distinction in the general practice of their profession. The boundaries of many of the larger tracts of land within the

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[11] Chapter 652, approved May 14, amending the fish and game law of 1892, chapter 488, as amended, was intended to restrict the hounding of deer in certain parts of the Adirondack Park and forest preserve. Deer could not be hunted with dogs except between the first and fifteenth of October.

By chapter 116, passed March 25, the State accepted the conveyance of the John Brown farm in the town of North Elba, Essex County, made March 29, 1895, by Henry Clews and Lucy Madison Clews his wife, to the State Comptroller, and with the condition that the farm "shall be and continue to be dedicated and used for the purpose of a public park or reservation forever."

The amendment, modifying the existing provision of the Constitution relative to the forest preserve, was again adopted at this session of the Legislature, and submitted to the people at the November election the same year, but it was not approved.

Forest Preserve have been monumented, and nearly one hundred and fifty thousand acres of these lands have been enclosed during the year, or about one-fifth of the present possessions of the State; and the work is still in progress. The topographical work has been kept apace with the survey of the boundaries, and the trigonometrical survey of the State has been extended with precision, with the aid of the best instruments and engineering talent available. This important work should receive the support of the Legislature as necessary to the preservation of the forests, and the boundaries of lands.[12]

TO PRESERVE THE PALISADES.

The Legislature of 1895 created a Commission charged with the duty of inquiring into and reporting upon the feasibility of preserving from destruction the basaltic cliffs on the west bank of the Hudson River, known as the Palisades. The State of New Jersey appointed a like commission to take similar action as to the portion of the cliffs referred to which is within the territory of that State, and these two commissions have acted jointly in furtherance of the general purpose. It would be supererogatory to dwell at length here on the desirability of taking all proper measures to keep intact this beautiful and in some respects unique example of nature's handiwork. It has long been a subject of public interest, and the propriety, even the necessity, of prompt action for the protection of the cliffs is conceded. The Commission recommends legislation necessary to the acquisition of the property by the Federal Government, with a view to making the Palisades and the plateau immediately west of the cliffs, a national park reservation; adding to it the features of a military post and camping or mustering ground for both State and National troops. These general lines of recommendation are concurred in by the New Jersey commission, and will be conveyed by that body to the Legislature of that State, so that joint action has been thus far agreed upon. A proposed bill for the carrying out of the general plan so far as this State is concerned has been prepared, together with the draft of a bill to be urged upon Congress at its present session looking to the establishment of the proposed Federal reservation. The full report of our State Commission will be laid before you at once and I cordially recommend the subject to your careful attention and prompt action.[13]

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[12] Chapter 480, approved May 9, authorized the State Engineer and surveyor to continue to co-operate with tne director of the United States Geological survey in making a topographic survey and map of the State of New York, and appropriated $10,000.

THE MEXICAN EXPOSITION.

In September next our sister republic of Mexico will open to the world its first great National Exposition of Industries and Fine Arts, in the City of Mexico. The enterprise is under governmental patronage and approval, and the people of all the States of our Union have been invited to become exhibitors and competitors. The Governors of the various States are also requested to appoint suitable commissioners, composed of representative citizens who are interested in the development of trade and commerce, and the cultivation of amicable relations between the two republics. The Governors of upwards of thirty States have accordingly appointed commissions of from five to twenty members, to promote, manage and otherwise stimulate the interests of their respective communities, in the matter of securing proper and worthy representation of their industries, products and arts. I have recently designated three gentlemen, well known in business relations with Mexico as a temporary committee, to take up the preliminary work which such a commission will be called on to perform. This has been done with a view of gaining time, inasmuch as only eight months remain in which to perfect such measures as may be taken. I therefore recommend that a suitable bill be passed without delay, providing for a commission of seven or more members, among whom should be included the temporary committee already designated, and which shall be known as The New York State Commission for the Mexican Exposition. This Commission will be expected to serve without salary or compensation; but their ordinary and proper expenses and clerk hire should be provided for by the State. For the defrayment of the necessary expenditures an appropriation should be made sufficient to enable the State of New York to be worthily represented in this undertaking.[14]

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[13] See *post*, p. 735 for a note on the palisades.

THE ATLANTA EXPOSITION.

In connection with the subject of the display of the handiwork, products and enterprise of our State, it is gratifying to refer to the success which was attained by New York, through the labors of the Commission which represented this State at the Cotton States and International Exposition which has just closed at Atlanta, Georgia. The New York exhibitors won twenty-four gold, fifty-two silver, sixty-three bronze medals, and numerous certificates of honorable mention, for the excellence of their displays. To the State of New York itself was awarded a diploma of honor and the gold medal offered "for most efficiently promoting the objects of the Exposition."

It was necessary that the States should have a headquarters building on the fair grounds at Atlanta, and a durable and suitable structure was accordingly built on the property of the Piedmont Driving Club, whose grounds were included in the area occupied by the Exposition. The city of Atlanta already owns a part of the fair ground and intends, as I am advised, at an early day, to convert the entire site, including the club grounds, into a public park to be known as Piedmont Park. The site of the New York State building was more commanding and attractive than that of any other State headquarters. For the privilege of erecting it there the State is indebted to the courtesy of the Piedmont Driving Club. It has been proposed, therefore, that the building be sold and conveyed to that club, which is an incorporated body, for a nominal consideration, so that it may remain as a memento to the people of Georgia from the State of New York, in the future park belonging to the city of Atlanta. To accomplish this object I recommend that a suitable law be passed authorizing and empowering the New York State Commission to transfer and convey to the Piedmont Driving Club the building erected and used by them during the Exposition.[15]

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[14] A bill was introduced in each house to provide for the representation of New York at the Mexican exposition, but no bill was passed.

COMPLETION OF THE CAPITOL.

One year ago I recommended that steps be taken for the completion of the New Capitol by contract, and the Legislature passed an act providing for a commission to carry that recommendation into effect.* The commission created by virtue of that act was empowered and directed to enter into a contract for the completion of the Capitol and its approaches, but it was permitted in its discretion to have certain parts of the work done by days' labor. The work thus far done under the supervision of this Commission and of Capitol Commissioner Perry has been of a very satisfactory character. No contract has been entered into as yet, however, the delay having been caused by the necessity of giving most careful consideration to the plans and specifications for so important a work. The matter has so far progressed, nevertheless, that the plans prepared by Commissioner Perry have been examined and approved by the Commission, and proposals for bids have been called for by advertisement, as required by the statutes. There is now a fair prospect that this great edifice, which has cost the people so much money and has been in process of construction for so many years, will be finished for some fixed amount of money and within a definite period of time.[16]

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[15] The Governor's suggestion was included in chapter 174, passed April 1, which authorized the Atlanta Exposition Commission to transfer the New York headquarters to the Piedmont Driving Club.

*Ante, p. 544.

THE GREATER NEW YORK.

The proposed incorporation of a Greater New York is a subject upon which no definite action was taken by the Legislature at its last session. It is a matter that deeply concerns the interest and wishes of more than one-half of the population of the State, comprised in several contiguous municipalities. I recommend that earnest and careful consideration be given to the subject and that some conclusive action be taken regarding it at your present session.[17]

EXTRAVAGANCE IN PUBLIC PRINTING.

It is proper that your attention should be called to the enormous and unnecessarily large annual expenditure for public printing. From official figures it is ascertained for the four fiscal years, 1892 to 1895, both inclusive, the total payments were almost $1,000,000. Nearly $100,000 of this sum was for the printing of the record of the Constitutional Convention, but excluding this item the annual average cost for the years indicated was $217,873. It is indisputable that a vast amount of unnecessary work is done each year by duplication of printed matters and the publication of large numbers of special reports and other matters in bound volumes and pamphlets, which are practically useless, as to their intrinsic worth or are sent out from the printing office in such numbers that they find their way by tons to the dealers in waste paper. As an instance, a local dealer in old books recently advertised for sale sets of the five volumes containing the report of the testimony taken by the Lexow Committee, within a week after the report was issued from the press. This extravagant system is sustained by the forms and conditions of making the contracts for public printing, which are so devised that the general printing trade is practically excluded from competing at all and the struggle for the contract is limited to a coterie of bidders who have controlled the work for many years. The great evil of the existing method of letting these contracts is the plausibility and ease with which their system of averaging or so called "unbalanced bids" can be accepted. For some work recently performed for the University of the State of New York the sum of $4,450 is charged and must be paid. The work I am advised could have been done, and was done prior to the present contract system, at a cost of $85, through "outside" printers and had the officials of the University not been led to understand orally that the work would not be charged for under the class "blanks" which is included in the schedule covering the "unbalanced bids," a plan would have been arranged to do the work without cost to the State, though it would have involved trouble to students and teachers, and might have led to some little confusion. A form of proposals for bids for printing can and should be prepared which will be intelligible to the State officers, whose duty it is to examine bids and award the contracts. As at present devised, under the law the forms of proposal are so worded that only a shrewd technical printer can comprehend the ultimate effect upon a contract let under their provisions. I therefore particularly recommend that the laws be so amended as to reduce the making of State contracts for printing to a fair business basis.[18]

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[16] Several acts were passed providing for the care and maintenance of the capitol, and for continuing work thereon.

[17] The Legislature at this session, by chapter 488, approved May 11, created a commission to frame a charter for Greater New York. A new charter was submitted to and passed by the Legislature of 1897. See 1895, note 15, *ante*, p. 553.

LEGISLATIVE PROCEDURE.

The Legislature of 1895 authorized the appointment of a commission of five persons who were directed to "investigate in relation to the organization and government of the Legislature, the introduction and progression of bills, and, generally, in relation to legislative business and methods;" and report to the Governor any changes they might deem desirable, in relation thereto. This commission has considered the subjects mentioned in the act, and have made a report to the Governor, recommending certain changes in legislative procedure which the commissioners think will facilitate and simplify the transaction of legislative business. Some safeguards against hasty legislation were provided by the Constitution of 1894,* and the beneficial effects of these constitutional provisions were apparent to all who had occasion to observe legislative procedure during the session of 1895. The principal changes suggested by the commission relate to the publication and introduction of private or local bills, and the preparation and revision of bills by legislative counsel. The report and recommendation of the commission will be submitted to the Legislature and will, doubtless, receive careful consideration.

I think an attempt should be made to limit and diminish the number of special statutes, by the enactment of general laws, embracing ample remedies and provisions for the relief of persons, corporations or communities, relative to subjects of a general character. Several statutes designed to accomplish this object have already been passed, but have apparently failed to stop the flood of special legislation. It is found to be easier and, possibly, in some cases, cheaper, to apply to the Legislature for relief, rather than to the court or other tribunal provided by general law, and the Legislature seems to be the subject of constant pressure upon various excuses to pass special laws; and even constitutional provisions, intended to limit special legislation, have often been evaded under the guise of a so-called general law. While the amount of legislation of a State with such a large population, and such great commercial and business interests as New York, is not likely to be very small, its bulk, I think, can be very materially reduced by the adoption of general rules calculated to provide relief and meet the wants of those who find it necessary, for the proper protection of their interests, to seek legislative aid.

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[18] An act passed in 1898, chapter 187, revised the provisions of the legislative law, relative to public printing, except the session laws, including advertisements for bids, proposals, rejection of bids, contracts, the cancellation thereof, and other regulations applicable to various subjects. See the State Printing law of 1901, chap. 507, which revised the whole subject of public printing and repealed prior statutes.

* Const. 1894, Art. 3, § 15.

The Legislature of 1895 enacted the largest body of legislation in the history of the State. A large number of bills did not receive executive approval but, 1,045 became laws. Of this number 398, more than one-third, relate exclusively to the government and affairs of cities; 382 were special city laws; 152 affecting New York; 83 Brooklyn, and 147 the other cities. The Constitution required all of these bills to be submitted to the cities affected by them before the Governor acquired jurisdiction to act upon them.[h] This submission imposed a large expense upon the cities a considerable proportion of which could, I think, have been avoided by the consolidation of many of the bills. I suggest that it may be feasible to adopt general rules regulating the introduction and passage of bills affecting cities, by requiring a consolidation of bills affecting the same general subject.

Commissions were appointed under laws passed by the Legislature of 1895 who were directed to prepare and submit to the present Legislature on or before February 1st, general laws relating to the property, government and affairs of cities of the second and third classes, and also such amendments to existing laws as they might deem proper. If a general charter can be prepared suitable and adequate for cities of the second class, and another for cities of the third class, considerable special legislation relating to cities will probably be thereby avoided.[19]

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[h] Const. 1894, art. 12, § 2.

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[19] The Commission appointed to propose legislation for cities of the second class presented its report to the Assembly on the 31st of January, 1896, and to the Senate on the 4th of February. For the text of the report, see Assembly document No. 44.

A general act for the government of cities of the second class was passed in 1898, chapter 182, which included several important features of city administration, but it was not a general charter. This act was afterwards modified in several particulars to meet differing conditions in cities of this class.

In 1898 the second class cities were Albany, Rochester, Syracuse and Troy. Schenectady, Utica and Yonkers became cities of the second class under the enumeration of 1905, which showed that they each had a population exceeding 50,000.

An amendment to the Constitution, art 12, § 2, adopted in 1907, reduced the minimum of population for a first class city from 250,000 to 175,000. This had the effect to make Rochester a city of the first class.

Another general act for the government of cities of the second class was passed in 1906, chapter 473, which repealed the foregoing act of 1898. The new act contained the following provision:

> "Within thirty days after each state enumeration, the secretary of state shall file with the clerk of every city, a certificate showing the population of such city; and if it appears therefrom that such city has, since the prior state enumeration, become a city of the second class, then all the provisions of this act shall apply to such city on and after the first day of January thereafter, but the provisions of this act shall not apply to any city that becomes a city of the second class under the enumeration had in the year nineteen hundred and five, until on and after the first day of January, nineteen hundred and eight, except that the elective officers provided in this act or otherwise by law for such city as becomes a city of the second class after such enumeration, shall be elected at the city election to be held on the Tuesday succeeding the first Monday in November nineteen hundred and seven."

The majority report of the commission on third class cities was transmitted to the Assembly on the 3d of February, 1896, and the minority report on the 10th. The majority presented a bill intended to embody its views, and embraced the following:

Vesting all executive power in the mayor, including the appointment and power of removal of all non-elective officers without confirmation by the

REVISION OF THE STATUTES.

By chapter 289, Laws of 1889, a commission was created for the purpose of revising the general statutes relating to the powers of boards of supervisors and local authorities of towns and villages; the organization, government and control of certain corporations; taxation, and the poor; and the commissioners were also authorized, in their discretion, to report bills for the revision of other general statutes. The commission, soon after its appointment, prepared a scheme of general revision, embracing fifty-one chapters. Of this number, twenty-eight have already been passed, and I am informed that eight general bills will be submitted by the commission to the Legislature at its present session, relating to taxation, real property, domestic relations, care of the insane, care of the poor, charitable institutions, do-

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common council; also vesting in the mayor power to veto legislative acts of the common council and providing for his removal by the Governor.

Enlarging the powers of the common council, and making its functions legislative only; recommending the election of the president of the common council and one half of the members thereof from the city at large.

Creating a board of public works with general supervision of public utilities.

Establishing a uniform system of taxation and assessment.

Creating a city court, and with some exceptions abolishing other inferior local tribunals.

Establishing a uniform police system under the supervision of one commissioner.

The majority report also included a bill "for the establishment of a State Municipal Government Board," which the commission said had worked well in England. It provided for the appointment by the Governor and Senate of a board of commissioners to "have general critical and advisory powers over all local municipal governments."

The minority report (Assembly Document No. 51), presented views concerning city administration quite different from those presented by the majority. The minority submitted a bill intended to embody its recommendations No uniform charter has been enacted for cities of the third class.

The State enumeration of 1905 showed 36 cities of the third class. Port Jervis was incorporated in 1907, and in 1908 Glens Falls and Oneonta received city charters, making in all 39 cities of the third class.

For the report of the commission to recommend changes in legislative procedure, see Assembly Document, No. 20, 1896.

mestic commerce, and State finances; and also a general bill repealing a large number of statutes which have been superseded by later legislation, or have become obsolete. These, with the bills already passed, embrace a large part of the more important statutes included in the scheme of revision. It is suggested that certain amendments to the Constitution, adopted in 1894, will render some of the proposed general laws unnecessary, and that the original scheme of revision will probably be somewhat modified. The Commissioners inform me that they will probably be able to present to the Legislature of 1898 a complete, revised, official edition of the general statutes, unless they are prevented from finishing this work by the labor involved in a revision of the code of civil procedure.[20]

By chapter 1036, Laws of 1895, a commission was appointed charged with the duty of examining the practice in this State, and the codes and practice acts and rules of courts in other States and countries, and reporting in what respects the civil procedure of this State can be revised, condensed and simplified. In order that the work of general revision might be carried forward systematically and harmoniously, the Commissioners of Statutory Revision were appointed to revise the code. Their report as commissioners of code revision has been printed and distributed to the members of the Legislature, and to others. From this report, it seems that it was impracticable, within the time limited by the act, to prepare a revision such as the statute probably contemplated, and the commissioners suggest that they will not be able to present such a revision until 1897.[21]

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[20] The following bills proposed by the Statutory Revision Commission were passed at this session: Poor law, chapter 225; Domestic Relations law, chapter 272; Religious Corporations law, chapter 336; Domestic Commerce law, chapter 376; Benevolent Orders law, chapter 377; Insanity law, chapter 545; State Charities law, chapter 546; Real Property law, chapter 547; Tax law, chapter 908.

For decisions sustaining various provisions in these general laws, see Re Walker (1900), 57 App. Div. 1; Parker v. Willard State Hospital (1900), 50 App. Div. 622 (Insanity law); Tax law, People ex rel. A. Klipstein & Co. v. Roberts (1899), 36 App. Div. 597, aff'd in 167 N. Y. 617; Wallace v. International Paper Co. (1903), 84 App. Div. 88; Orr v. Gilman (1901), 183 U. S. 278, aff'g 167 N. Y. 227; Re Delano (1903), 176 N. Y. 486; Re Fuller (1901), 62 App. Div. 428.

For decisions holding various provisions unconstitutional, see Bell v. Niewahner (1900), 54 App. Div. 530; Warner v. Palmer (1901), 66 App. Div. 127 (Domestic Commerce law); Oviatt v. Hopkins (1897), 20 App. Div. 168 (Real Property law).

The Legislature of 1891 directed the Commissioners of Statutory Revision to republish verbatim, preserving the original spelling and punctuation, the statutes of the colony of New York from the foundation thereof to the adoption of the first Constitution of the State. This work is nearly completed, and the colonial laws thus republished will probably be distributed during the present session of the Legislature. By this publication, early colonial records which are now quite rare, and not easily accessible, will be preserved and placed within the reach of all our people.[22]

In closing this message, I take the opportunity of saying that the affairs of the State are in a generally prosperous condition, a fact which must be gratifying to the whole people. It has not been deemed necessary to refer here to all departments of the State government, but only to those whose affairs seemed to require special consideration. I have reason to believe that all of the departments are being well conducted, in compliance with law, and their respective detailed reports will probably convey to you all the information which may be desired.

Very respectfully,

LEVI P. MORTON,

Governor.

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[21] Code bills were presented to the Legislature by the Code Revision Commission in 1898, 1899 and 1900, but were not passed. This commission was terminated in 1900.

[22] The colonial laws were distributed under an act passed in 1897, chapter 400.

SPECIAL MESSAGES.

January 8. To the Assembly: Transmitting the report of the Commission to recommend changes in legislative procedure; the report of the Volunteer Life Saving Corps; the annual report of the Commissioners of Pilots; the report of the Commissioners of the Palisades; and the annual report of the Adjutant General.

January 22. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *January* 22, 1896.

I desire at this early period in your session to call attention to the necessity for the strictest economy in the appropriation of public moneys. The files of bills thus far introduced show that appropriations aggregating more than two and a half millions of dollars are now pending before you, although but ten days of the legislative session have expired.

Recognizing clearly the powers conferred upon the executive and legislative branches of the government under the Constitution, and with no desire to infringe upon the prerogatives of the Legislature, it nevertheless becomes my obvious duty to say that this amount seems excessive, especially in view of the fact that the appropriation and supply bills — the great financial bills of the session — have not yet been prepared.

It is probable that in view of public sentiment, decisively expressed, some provision will be made at the present session for transferring the care of the dependent insane in the county of New York to the State at large. Should this be done, it will necessitate a fixed addition to the tax rate of one-third of a mill, or $1,431,000. The people of the State have also, by the adoption of an amendment to the Constitution at the last election, provided for the creation of a debt of $9,000,000, for the improvement of the canals, and chapter 79 of the laws of 1895 imposes a further annual addition to the tax rate of thirteen one-hundredths of a mill for the creation of a sinking fund and the payment of the interest upon this debt. It seems probable that under any circumstances the State will find it difficult to avoid increasing its tax levy, year by year, in view of the additional burdens which have been assumed by the State.

Upon this aspect of the situation I deem it proper to bring especially to your notice a passage from the report of the Comptroller for the year of 1895, in which he refers to ‘ the tendency of the State to build up a gigantic system of expenditures in various directions,’ in these words:

‘ It may be as well for the people to know now as later that a result of this policy will be that a low tax rate can never be had in this State again, unless new sources of revenue are discovered. The care of the charities, including the pauper insane, the care of the school system, the militia, the canals and the judiciary, under the new Constitution, will present certain fixed charges which will render a low tax rate impossible. These items in the future will not fall much, if any, below the following amounts per annum:

Charity (including pauper insane)........	$6,000,000
School system........................	4,800,000
Militia (exclusive of betterments).........	600,000
Canal maintenance......................	800,000
Judges' salaries........................	500,000
	$12,700,000

‘ These five items alone, which are more likely to increase with the years than to decrease, represent a tax rate of 2.96 mills on the dollar. The State prisons cost the people at present $500,000 per annum in round numbers; but when the provision of the new Constitution which relates to the employment of prisoners in the penal institutions, goes into effect next year, there will be a very large increase in this item. It may not be out of place here to say that the total cost of government for this State in 1862, including the schools, was only a trifle more than the amount paid for charities this year.'

The people have endured a long period of business depression and waited in vain for that return of prosperity which was so confidently expected, and as a consequence the burden of taxation rests with more than usual severity upon them. It is felt alike by the farmer, the artisan, the laborer, the merchant and the investor.

While the Legislature should at all times avoid unnecessary and excessive appropriations of public money, and require the strictest economy consistent with good administration in every branch of the public service, there is to-day a special reason why this principle should be carefully applied. It is always essential that the affairs of Government should be managed with that degree of economy and zeal which achieves success in the management of private business, yet it is urgently desirable in these days of mercantile and industrial inactivity that no unnecessary burden shall fall upon the taxpayers. As guardians of the public interests and custodians of the public funds, the paramount question should be when considering the appropriation of the people's money — Can this expenditure be deferred without injury to the public interests until business shall have resumed its normal activity?

The bills already before your respective houses disclose a disposition to authorize or at least to ask for considerable expenditures for new construction, such as for armories, normal schools and other State institutions. There may be reasons in particular localities which seem to justify these demands, but it is to be gravely considered whether these local needs are so pressing that they shall be allowed in their aggregate to considerably augment the financial requirements of the State, and thus add to the sum of taxation. To yield to this pressure would seem to violate that maxim which holds that ' the greatest good to the greatest number ' is the true aim of popular government. I therefore earnestly urge deliberate action, and recommend that expenditures for construction be confined as closely as possible to the maintenance and preservation of existing property of the State, to the end that there shall be watchful but discreet economy in all matters of taxation. Your purpose to conserve the best interests of the State is conceded, and in no way can you more richly merit the approval of the people, or justify your own consciences than by earnestly striving for that result.

LEVI P. MORTON."

January 23. To the Assembly: Transmitting the annual report of the receipts and expenditures of the Cooper Union.

February 3. To the Assembly: Transmitting the report of the commissioners appointed pursuant to the provisions of chapter 1011 of the laws of 1895, to prepare charters for cities of the third class, together with drafts of proposed bills. Assembly Document, No. 45. [See note 19.]

February 10. To the Assembly: Transmitting the annual report of the civil service commission, and the minority report of the commission to prepare legislation for cities of the third class. [See note 19.]

February 17. To the Assembly: Transmitting the annual report of the State Board of Health.

February 18. To the Assembly: Transmitting the annual report of the Herkimer Monument Commissioners.

March 4. To the Assembly: Transmitting the annual report of the commissioners of quarantine, also the report of the commission to superintend repairs at the quarantine establishment.

March 20. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *March* 20, 1896.

"For a number of years there has been a strong and constantly growing sentiment in the city of New York in favor of a reform in the public school system of that city. It has been conceded by all persons who are familiar with the subject that the laws relating thereto were in need of revision. While there have been frequent amendments, the general scheme has remained unchanged, though it was adopted when practically the whole city lay below Fourteenth street, and the upper portion was a sparsely settled and almost rural community. The law divides the responsibility for the educational system between the Board of Education (appointed by the mayor from the city at large) and twenty-four local boards of School Trustees (appointed by the Board of Education from each of the wards in the city), the trustees being charged with the employment of teachers.

The plan was not an unusual one in the cities of the State at the time of its adoption, but has long since been discarded by the other cities; while strange to say it is retained in the metropolis, to the needs and conditions of which it is more ill-adapted than perhaps to any community. The attention of the Legislature has for several years been called to the subject, but for one reason or another no practical results have been achieved. The people of our first city are entitled to primacy in the great bulwark of our institutions, the common school. A subject so close to the citizen as the education of his children, demands the patriotic and elevated consideration of the law-making power.

A comprehensive bill covering the administration of the public schools in the city of New York has been introduced, retaining, with somewhat limited powers, the trustees; another bill, proposing nothing new for the system except the abolition of the trustees, has been offered. The Senate

Committee on Cities having these bills in charge has reported to that House a bill containing the provisions of the first-mentioned bill but abolishing the trustees and investing their powers and duties in the Board of Education.

The committee bill has met with general approbation, including the earnest support of the metropolitan press, of a large number of thoughtful women and men and of educators whose experience and qualifications make their judgment valuable. No opposition as far as I am aware has developed except that offered by persons directly or indirectly connected with the present system.

The existing law is antiquated and wholly inadequate. The division of duty leads to confusion and uncertainty in administration and renders it difficult to fix responsibility.

It is respectfully suggested that any measure that retains the Ward Trustee plan must fail of accomplishing the ends desired.

I appeal to the Legislature to promptly enact a law abolishing the trustee system and making enlightened provision for the efficient government of the public schools on lines in keeping with the most approved methods and modern thought on this vital question. The importance of this subject and the advanced stage of the session constrain me to communicate my views in this manner to the Legislature.[23]

LEVI P. MORTON."

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[23] Chapter 387, passed April 27, relating to common schools and public education in the city of New York, provided for a board of education "to have full control of the public schools and public school system of the city, subject only to the general statutes of the State upon education," and to certain provisions in the new act. The board was to consist of 21 commissioners of common schools, appointed by the mayor. The existing office of trustee of common schools in New York was to be abolished on the 30th of June, 1896. The board of education was required to divide the city into not less than fifteen inspection districts, and the mayor was required to appoint five inspectors of schools for each district. The act prescribed the general powers of the board of education, and contained numerous administrative regulations relating to the educational system of the city.

March 25. To the Assembly: Transmitting the annual report of pardons, reprieves and commutations.

March 26. To the Assembly: Transmitting the annual report of the Health Officer of the Port of New York.

April 24 and 25. To the Senate and Assembly, respectively:

"EXECUTIVE CHAMBER,
ALBANY, *April* 24, 1896.

"I am reminded through the medium of correspondence — a copy of which accompanies this message — that on the third day of January next will occur the one hundredth anniversary of the permanent establishment of the city of Albany as the legislative seat of the State of New York. Prior to that time the legislative sessions had been held with much irregularity in four different cities of the State. The first session ever held after the organization of the State government was the meeting of both houses at Kingston in 1777. At that time George Clinton was Governor of the State of New York. Pierre Van Cortlandt, afterwards chosen Lieutenant-Governor, was the first president of the Senate, and Walter Livingston was elected Speaker of the House. The Assembly began its session on September 1 and the Senate on September 9. The session was continued by the Assembly until October 1, and by the Senate until October 7, when the Houses were 'dispersed by reason of the approach of the enemy.' The second half of the session was held at Poughkeepsie, the Assembly convening on January 5, 1778, and the Senate on January 15. Both houses remained in session until April 4. On June 22, they re-assembled and that sitting was continuous until June 30. Subsequently the sessions were held varyingly at Kingston, Poughkeepsie, New York and Albany.

The first half of the twentieth session began November 1, 1796, in the city of New York, and ended November 11.

The second half began January 3, 1797, at Albany and continued until April 3. John Jay was then Governor.

Stephen Van Rensselaer was Lieutenant-Governor and presiding officer of the Senate, and Gulian Verplanck was Speaker of the Assembly.

From that time until the present the legislative sessions have been held continuously, and by successive acts this city has been confirmed as the State Capital. The first enactment which provided for the establishment of the Legislature here was chapter 31 of the laws of 1797, passed March 10, that being in the twentieth session of the Legislature. The act provided that unless the Legislature was convened 'by proclamation of the person administering the government of this State for the time being,' then and in that case 'the Legislature should annually and without any summons or notification whatsoever convene on the first Tuesday in January then next, at the city of Albany.'

It is proposed by the Mayor and citizens of Albany to celebrate the approaching anniversary in a becoming manner, and it appears proper that your attention should be called officially to the subject, to the end that before adjournment such steps may be taken as in your judgment may seem meet for the due observance of, and your proper participation in, this historical commemoration.[24]

LEVI P. MORTON."

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[24] The centennial celebration of the location of the capitol at Albany was provided for by chapter 743, approved May 19, which created a commission composed of the mayor of Albany and of four other persons to be appointed by the Governor. The celebration was to be held on the 3d of January, 1897. The act authorized the commissioners to make provision for the celebration and appropriated $2,500. The city of Albany was authorized to expend $5,000 for the purpose of conducting the celebration.

Governor Morton appointed William Jay of New York, William Bayard Van Rensselaer of Albany, Myer Nussbaum of Albany, and James M. E. O'Grady of Rochester as Centenary Commissioners. Mayor Thacher was chairman of the Commission.

The centennial anniversary was celebrated at Harmanus Bleecker Hall in the city of Albany on the 6th of January, 1897, at two o'clock in the afternoon. Governor Black presided. The exercises consisted of a prayer by Bishop Thomas M. A. Burke, an address by former Lieutenant-Governor

The following is the letter from the Mayor of Albany:

CITY OF ALBANY,

MAYOR'S OFFICE,
ALBANY, *April* 22, 1896.

Hon. LEVI P. MORTON, Executive Chamber, State Capitol, Albany, N. Y.:

DEAR SIR.—On the third day of January in the year 1797 the Legislature of the State of New York opened its session in Albany. From that day to this the seat of the State Government has been in our city. Therefore, the third day of next January will be the one hundredth anniversary of the establishment of the Capitol within the city of Albany, and it has occurred to me that there might be some propriety in the Executive of the State and a committee from each House of the Legislature providing for suitable ceremonies to commemorate this event.

Yours,

JOHN BOYD THACHER,
Mayor.

April 29. To the Legislature: Certifying to the necessity of the immediate passage of the election law, which became chapter 909. Sections 19 and 36, public printing, were sustained in People ex rel. Weed-Parsons Printing Co. v. Palmer (1896) 18 Misc. 103.

April 29. To the Legislature: Certifying to the necessity of the immediate passage of a bill " to provide for the

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Thomas G. Alvord, a poem by William H. McElroy, and an historical oration by Chauncey M. Depew. The benediction was pronounced by Bishop William Croswell Doane.

Besides the exercises at the Hall, there were parades, an ice carnival in Washington Park, fire works and a State ball at the Armory. The report of the Commission, which was transmitted to the Legislature March 26, 1897, included an introductory historical sketch by Franklin M. Danaher of Albany.

centennial celebration of the location of the capitol at Albany," which became chapter 743. (See note 24.)

April 30. To the Legislature: Certifying to the necessity of the immediate passage of the bill imposing a tax rate for the care of the insane, which became chapter 944.

April 30. To the Legislature: Certifying to the necessity of the immediate passage of the supplemental supply bill, which became chapter 949.

April 30. To the Legislature: Certifying to the necessity of the immediate passage of the bill fixing the tax rate, which became chapter 945.

April 30. The Legislature adjourned without day.

MEMORANDUMS FILED WITH BILLS BEFORE THE ADJOURNMENT OF THE LEGISLATURE.

February 17.

Memorandum filed with Assembly bill, chapter 23, relating to cancelling the authority of foreign insurance companies.

"This bill seeks to amend section 33 of the insurance law by adding a provision for the cancellation of the authority of foreign insurance companies, whenever a company organized under the laws of this State is excluded from a foreign country and is prohibited from transacting business therein, after its compliance with reasonable laws relating to deposits of money or securities with the government of such country. The immediate occasion of the passage of this bill is said to be the difficulties or obstructions encountered by several New York life insurance companies in transacting their business in a certain foreign country; and it is alleged and not denied that these companies had complied, or offered to comply, with the demands made upon them; but that notwithstanding this compliance they were arbitrarily excluded and prohibited from transacting business in that country. They had been for several years engaged in business there, and it is not claimed that they had failed to comply with any of the requirements imposed upon them by the government of that country. Their exclusion, under the circumstances, seems to justify some action by the Legislature, and this bill was prepared for the purpose of providing means to enable the Insurance Department to properly protect our home corporations by requiring the Superintendent to exclude foreign corporations from the privilege of transacting business here, when the like privilege is denied to our companies desiring to transact business in a foreign country. While retaliatory legislation is not usually to be commended, it should be enacted for the purpose of self defense and the protection of our business interests, whenever it appears that any other State or country is unwilling to accord to our citizens reasonable reciprocal privileges within its dominions. It seems only reasonable that foreign corporations should not be permitted to do business here when the government under which they are organized denies to our corporations like privileges. To take no notice of the exclusion of our companies under the circumstances indicated would imply lack of patriotism and self respect on the part of our people. The Legislature has seen fit, by the vote of a large majority, to give this matter attention by the passage of this bill, and this exercise of legislative judgment is I think proper and should be approved.

It is urged in opposition to the bill that it is too broad, that it gives the Superintendent of the Insurance Department no discretion beyond the consideration of two given subjects, and that it will be harmful to the business interests of the State. Our State already has a well defined policy concerning foreign insurance companies. The law provides that ' the Superintendent may refuse to issue any certificate to a foreign corporation if, in his judgment, such refusal will best promote the interests of the people of the State.' This vests the Superintendent with very large discretion, and he might perhaps under this authority refuse a certificate to a foreign corporation applying to do business in this State; but it does not give him any authority to cancel existing certificates. Foreign insurance companies are required to make large deposits before commencing business in this State, and the Superintendent is authorized to examine the assets, books, accounts and general condition of such corporations. He may even visit the general office of such foreign corporations, wherever located, investigate and examine its affairs and condition, and cancel and revoke its certificate, if it unreasonably refuses or neglects to comply with the law, or allow such examinations to be made.

The certificate of authority granted to a foreign corporation remains in force only one year, and it cannot be renewed unless the Superintendent is satisfied that the capital, securities and investments remain secure, and that the company may be safely entrusted with a continuance of its authority to do business, and when he is so satisfied it is his duty to grant a renewal of such certificate. Specific taxes are also imposed upon the business of certain foreign insurance corporations, which are devoted to special purposes. The section of the law which this bill seeks to amend relates to reciprocal requirements between this State and other States, concerning burdens which may be imposed upon insurance corporations organized under the laws of this State, doing business in other States, and requires the Superintendent to impose upon insurance corporations of other States the same burdens which are imposed upon New York corporations doing business in such States. The amendment now under consideration extends this principle to our relations with foreign governments by requiring the cancellation of the authority of foreign insurance companies whenever our companies are not permitted to do business in the country where such foreign corporations are organized. Objection is also made to this bill that it gives no discretion to the Superintendent beyond the consideration of the subject of a deposit of money or securities with a foreign government by a New York company, and that if such government deems it proper to impose other limitations or restrictions as a condition of carrying on business there, and the company declines to comply with such additional limitations and restrictions and withdraws from such country in consequence thereof, it may apply to the Superintendent for an order cancelling the authority of every company organized under the laws of such foreign government and licensed to do business in this State, and that it will thereupon be his imperative duty to cancel such authority. Possibly the bill is literally capable of this construction, but a New York Company which is unwilling to comply with reasonable regulations imposed by a foreign government, even in addition to those mentioned in this bill, would be entitled to little consideration by the Insurance Department and would receive scant sympathy from our people. The bill is evidently designed to reach only extreme cases, and it is likely to be only such cases that will come to the attention of the Insurance Department. If a practical application of the law shows that it is liable to abuse and that the aid of the Insurance Department is invoked to procure the cancellation of the authority of foreign companies under unreasonable or unworthy circumstances, the good sense of the Legislature may be trusted to make such amendment to the law as experience may wisely suggest. The opponents of the bill also claimed that it will seriously affect the business interests of the State by depriving our people of the opportunity to obtain adequate fire insurance. This objection comes from large commercial interests, and the protest is certainly entitled to serious consideration, but an examination of the subject leads me to think that the possible harmful results are overestimated, and that no such mischief will ensue as is predicted by those who object to the bill. The law can probably have no retroactive effect, so as to authorize the Superintendent to cancel the authority of foreign companies, upon an application based upon an order already made by a foreign government, and his aid can only be invoked in case of a refusal of an application hereafter made by a New York company for permission to transact its business in a foreign country. Whether such an application will be made by a New York company to a foreign government, and whether if made it will be refused, can only be conjectured. It cannot be assumed in advance, and the bare possibility of such a result is not sufficient reason for the disapproval of the measure, which in its general scope is proper for the protection of New York corporations. Besides, the present insurance law permits our citizens to obtain insurance from corporations which are not authorized to do business in this State upon filing with the Superintendent and county clerk an affidavit to the effect that, after diligent effort, they are unable to procure the amount of insurance required to protect the property owned or controlled by them from the insurance corporations authorized to transact business in this State. This additional insurance is obtained through agents licensed by the Superintendent for this express purpose. This provision of our law authorizes foreign insurance companies to do business here to a limited extent, without procuring a certificate of authority from the Superintendent, and enables our people to avail themselves of these companies, although they have not fully complied with our law. The limited number of affidavits for this class of insurance, filed in the Insurance Department, shows that the available regular insurance is practically sufficient. The probability of the exclusion of any foreign companies under this bill is I think very remote, but even if a few of the companies now doing business in this State shall be excluded under the operation of this law, it seems quite clear that there will continue to be enough regular insurance, in addition to that which might be obtained under the law last cited, to accommodate the needs of our people. The justness of the principle embodied in this bill is almost universally conceded by those who have given it attention during its Executive consideration, and while some objections to the measure might be removed by its modification in form and scope, these do not seem to be of sufficient importance to require the return of the bill to the Legislature for that purpose. The bill is therefore approved.

March 23.

Memorandum filed with Senate bill, chapter 112, regulating the traffic in liquors. [See note 9.]

"In considering this bill, the first question that demands attention is one of jurisdiction. Objection is made that the bill is not now properly under Executive consideration for the reason that it has not been submitted to various cities for their acceptance.

It is urged that the bill is 'a special city bill' within the meaning of section 2 of article XII of the Constitution, and that Executive jurisdiction can only be acquired after its transmission to the cities affected, and their action thereon. It seems quite apparent that the bill is general in the sense that it applies to all parts of the State. Every town, village, city and county is affected by it, and it is intended to be a general and complete scheme upon the subject of the regulation of the liquor traffic. It is also I think general within the meaning of the Constitution, because it relates to all cities of each class. The Constitution expressly says that 'special city laws are those which relate to a single city, or to less than all the cities of a class.' The amount of tax imposed upon the liquor traffic varied in different cities, and the amount of revenue which cities may derive from the liquor traffic also varies, but the ratio of distribution of the liquor tax is uniform. The tax, however, is assessed upon the individual, and the city has no interest in it until it is paid to the county treasurer or other proper officer. The lack of uniformity in the provisions of a bill intended to be general does not make it a special city bill within the meaning of the Constitution, unless it contains provisions relating specifically to a particular city. In fixing the rates of taxation, the Legislature might have adopted the classification of cities prescribed by the Constitution, but it chose to create an artificial classification, which has had the effect of making a different rate of taxation in cities belonging to the same constitutional class. Such artificial classification is not objectionable, and does not alone render the bill subject to action by the cities.

It should also be observed that this bill is not to be construed as if it named all the cities of the State and prescribed the tax to be imposed upon the liquor traffic carried on in each of them. The bill evidently contemplates a continuous, elastic and changeable scheme of taxation, varying from time to time according to population, so that after an enumeration of inhabitants as prescribed by the Constitution, a new classification of cities and villages for the purposes of this tax will be made, and cities and villages in which under present conditions a given rate is imposed, will be placed in another class, and the rate of taxation will be higher or lower according as the population is shown to have increased or diminished. Other cities and villages will also probably be incorporated and must be classified according to their population. It will hardly be claimed that after each enumeration and consequent new classification the cities would have the right again to express their approval or disapproval of the amount of tax to be imposed therein. A bill evidently intended to be general and to apply to all the people of the State, and possessing the qualities of perpetuity and elasticity above mentioned is not I think a special city bill, although its effect may not be uniform in all cities.

I think that this bill is now properly under Executive consideration, and that my jurisdiction to act upon it is complete and undeniable.

In my annual message to the Legislature at the opening of the present session, it was suggested that the question of regulating the sale of intoxicants would be under consideration, and I took occasion to recommend ‘ such legislation as will measurably reduce the number of places in which intoxicating beverages shall be sold throughout the State.’ Attention was called to statistics showing that there is a larger number of saloons in this State, in proportion to population, than in any other whose statistics are available, New York having a licensed retail drinking-place for every 150 inhabitants, while the number of saloons in the United States, including the prohibition states, is one to each 278 of the population; and a recommendation was made that the ‘ Legislature endeavor to formulate a law which shall, so far as practicable, embody the best features of the liquor law now in successful operation in various states, with a consistent aim towards the reduction of the number of saloons in this State.’*

The bill now under consideration is a result of the deliberations of the Legislature upon this subject and the suggestions of many persons interested in it, and while it is not free from objection in some of its details, I have no hesitation in commending the measure as a whole. It marks the beginning of a new era in legislation in this State regulating the liquor traffic. It is a radical departure from the traditional policy of the State, which has heretofore considered the regulation and sale of intoxicating liquors matters of purely local jurisdiction. The subject has been under the general supervision and control of local officers chosen by the municipalities, except that for a few years during the early history of the State the commissioner of excise for the city of New York was appointed by the Governor. This bill changes the entire scheme; abolishes all local boards having jurisdiction to issue licenses for the sale of liquor, and places the whole subject under State supervision. Whether this is wise or not, experience only can demonstrate; but it is an experiment worth trying, and and I believe that if the design of this bill is fairly worked out by competent and faithful officers it will produce a result so beneficial that our people will not be likely to wish to resume the system of local supervision with which we are so familiar, and which in many respects is so unsatisfactory.

**Ante*, p. 666.

From Magna Charta until now, English speaking people have had almost constant occasion for legislation regulating the sale and use of intoxicating liquors. Various experiments have been tried with more or less success, and our own State is no exception to the halting and fluctuating efforts that have been made to suppress intemperance. The evils resulting from the traffic are universally admitted, and the power of the State to regulate or even prohibit it is not denied. The wisest statesmen and philanthropists have given the subject the most careful attention, but the problem is not yet solved. Absolute prohibition is probably not attainable, and we can only hope for legislation embodying such reasonable regulations as may tend to repress so far as practicable the inherent evils connected with the liquor traffic. This bill is an attempt to accomplish this result, and for the first time the State assumes control of the subject. In doing this the State is amply justified by the consideration that the effects of the use of intoxicating liquors are not local but are widespread and far reaching, and that the State itself is subjected to large expense in the creation and maintenance of institutions for the care of unfortunates who suffer directly or indirectly from the effects of the use of intoxicating liquors.

Probably the most sanguine advocates of the present measure do not hope that all the evils of intemperance will be removed by it, but I think that it may reasonably be expected that the number of places where intoxicants may be purchased will be considerably reduced, especially in the larger cities.

In opposition to this measure it is urged that it is not equal in its application and will not be equal in its results throughout the State; but equality and exact application in legislation of this character is hardly to be expected. A measure of this importance which concerns directly or indirectly more than six millions of people, differing widely in their tastes, education and experience and in their social and industrial relations, can hardly be expected exactly to fit every community and every interest, individual or aggregate, which may be affected by it. Only general lines of action can be indicated in such a law, and there must be an adjustment so far as possible to these general conditions.

It should be noted that except in New York and Brooklyn, where the tax is respectively $800 and $650, and in a few large villages, the tax imposed by this bill is no higher than the maximum license fees now allowed by law. The license fee in cities may now be fixed at not less than $30 or more than $500, and in other places at not less than $30 or more than $150. By this bill the tax in Buffalo and all the cities of the second class — namely, Albany, Rochester, Syracuse and Troy — will be $500. In other cities except Hudson the tax will be $350, as against a possible $500 under existing law. In Hudson the tax will be $300. There are also a few large villages where the tax will be $350, several where it will be $300, and others where it will be $200. In the rural communities generally the tax will be $100, as against a possible $150 under the present law. The bill does not provide for 'high license,' as that term ordinarily is understood, but fixes the tax at an average and moderate rate, although probably somewhat higher than the license fee now generally charged.

The principle of local option in towns is retained, with the additional provision that if the town determines either for or against the sale of liquor by popular vote, that result cannot be changed within two years. It may be desirable to extend the local option features of the law to cities, either as a whole or by wards. If the people of any city desire an opportunity to vote upon this question, the Legislature will doubtless accord it that right, and public opinion may soon warrant a general amendment to the bill, providing for local option in all cities. On principle, there seems to be no reason why local option should not be applied to cities as well as to rural communities.

The bill imposes severe penalties for the sale of liquors without the payment of a tax, and for a violation of the tax certificate, and it also contains stringent provisions concerning the persons by whom, and the places in which, liquor may be sold. It also contains a provision, new in our legislation, authorizing an injunction to restrain the sale of liquor without a certificate, and making the violation of an order of the court a contempt.

Two-thirds of the amount of each tax are to be paid to the municipality where the business is carried on. Objection is made to the bill that all of the tax should be paid into the municipal treasury for local purposes, and that it is purely a matter of local legislation; but as already suggested, the State has an interest in the enforcement of the law and has a right to some portion or even all of the tax to be imposed upon a business authorized by it. If the number of certificates issued under this law should equal the number of licenses now in force, the revenue of the municipalities in most cases would be very largely increased, because the tax is higher than the rate now generally charged for a license. If allowance be made for a material reduction in the number of certificates in consequence of the increase in the rate, this increase is so considerable in most cities that the revenue of the city would probably still be as large as or even larger than under the existing conditions.

The bill seeks to accomplish a complete revision of all the excise laws of the State, repealing existing statutes but retaining most of the provisions except as necessarily modified by the change of scheme for the granting of certificates or licenses. Provisions of law upon this subject, more than a century old, which have proven salutary as well as necessary restraints upon the liquor traffic, are continued in force.

It will not be practicable here to enter into consideration of the details of the bill. It is plain, concise and comprehensive, and will I think easily establish its right to stand as a statute calculated to simplify, if not at once to settle, the vexed question of the regulation of the liquor traffic. It is entitled to a fair trial, and I am firmly convinced that many of the evils incident to the liquor traffic will be lessened, though perhaps not entirely eliminated, by this new measure.

It has been suggested that the bill in some of its features, especially in some of its administrative details, should be amended. Experience will probably suggest other amendments. This subject has received the thoughtful attention of reformers and legislators for centuries and, even with the aid of their experience and study, it is hardly to be expected that an ideal statute can be formulated at one stroke, involving such a marked change of policy, as well as numerous changes in detail.

By the passage of this act the Legislature has I think made a sincere effort to comply with the suggestion made in my last annual message, and has produced a measure which I confidently believe will be gratefully appreciated by all who think that further restraints should be imposed upon the liquor traffic."

April 27.

Memorandum filed with Assembly bill, chapter 389, for the relief of the town of Smithtown, Suffolk County.

"The object of this bill is to permit the taxation of land belonging to the State and occupied by the Long Island State Hospital in the town of Smithtown, for the purpose of aiding the town in the payment of an indebtedness contracted prior to the acquisition of the land by the State. It seems that the land was acquired by the county of Kings for an asylum or hospital, and that since it was so acquired it has been assessed by agreement at a valuation of $87,500, upon which taxes have been paid to the town, and it is urged in behalf of this bill that the town should not now be deprived of the benefit of this tax. The bonded indebtedness is $50,000, and the bonds are due in about six years. The town already has a sinking fund of $13,500 to be applied to this indebtedness. These bonds were issued before the land was acquired by Kings County, and the town now asks that the assessment shall continue as against the State until the bonded indebtedness is discharged, after which time the property will be exempt from taxation. The bill directs the State Treasurer to credit the county of Suffolk for State taxes an amount equal to the proportion of taxes which may be required to pay such bonded indebtedness, and the town is directed to apply the amount of such credit upon the indebtedness from year to year.

There seems to be an equity in this bill, and while it is contrary to our general policy to allow the property of the State to be taxed, it seems only just that this town should continue to receive the benefit of the taxation of this property, which it would otherwise have received if the hospital had not been taken by the State. The bill at most is only temporary in its effect, and can hardly be used as a precedent for general legislation authorizing the taxation of the property of the State. The assessment is to be approved each year by the Comptroller, who as a representative of the State will see that its interests are protected. The bill seems to me equitable and I think it should receive Executive approval."

April 29.

Memorandum filed with Assembly bill, chapter 424, relating to coroners in Kings County, which became a law without the Governor's approval.[25]

"The principal object of this bill is to regulate the term of office of coroners of Kings County, and it is provided in substance that there shall be an election of coroners in 1899, when coroners shall be elected for the term of four years; and provision is made for the election of their successors once every four years.

It seems that the present incumbents of the office of coroner in this county were elected in 1895 for a term of three years which will expire December 31, 1898, and the bill expressly continues these coroners in office until the last day of December, 1899. There seems to be some doubt about the power of the Legislature to extend the term of an elective officer and this bill is perhaps objectionable for that reason, but the situation in Kings County is somewhat peculiar. By an amendment to the Constitution adopted in 1894, the office of coroner ceased to be a constitutional office, but the office itself was not abolished because it was continued by virtue of statutes which have been long in force.[1] The term of office fixed by the Statute and by the old Constitution was three years, and under ordinary conditions the successors of the present incumbents in Kings county would be elected in 1898; but by the provisions of section 3 of article XII of the new Constitution, county officers in the counties of New York and Kings, except to fill vacancies, must be elected in the odd-numbered years. This seems to prevent an election of coroner in 1898, and under the Constitution there could be no election for this office in Kings county, except to fill a vacancy, prior to 1899.

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[25] The provision in the Kings county coroner's act of 1896, chapter 424, which extended the term of the coroner then in office was held unconstitutional in Re Burger, 21 Misc. 370. The court said the Constitution of 1894, article 12, section 3, which required the terms of office in cities affected by it to be fixed at either two or four years, had the effect to reduce to two years terms of coroners who had been elected for three years under existing law.

[1] Const. 1894, art. 10, § 1, omitting the word "coroner."

This produces an interregnum during the year 1899, and the present incumbents would hold over under the public officers law through that year, unless the vacancy were filled by appointment by the Governor. This bill attempts to cover this interregnum by continuing the present incumbents in office until there can be a regular election. As already suggested, the validity of this provision may be doubted, but it is the shortest extension which can be made to cover the period which must elapse before there can be a regular election; and in view of the peculiar situation, the importance of regulating the term of office of coroners hereafter to be elected in that county, and because the near adjournment of the Legislature renders an amendment to the bill impracticable, I have concluded to permit it to become a law."

THIRTY DAY BILLS.

May 11.

Memorandum filed with Senate bill, chapter 488, the Greater New York Bill. Approved.

" This bill as its title indicates is intended to provide the basis for a consolidation of the counties of New York, Kings, and Richmond, and a part of Queens, into one great city. The territory embraced in the area of the proposed city aggregates nearly 318 square miles and contains over three millions of inhabitants. The municipalities to be included in the proposed consolidation have attained their present condition through many years of gradual growth, and each has acquired an individuality incident to its location, its peculiar social, business and political conditions, and the different characteristics of the people who have made it what it is. The growth, development and expansion of a great city in the ordinary way by the gradual accretions of wealth, territory and population, excite no special attention except by comparisons between different periods, but the consolidation of great municipalities like those included in this bill, by an act of the Legislature, presents many complex questions. To effect a proper consolidation of this territory, with its divergent interests, into one municipality, there must be provided a harmonious government, an equitable system of taxation, a fair adjustment of the several existing municipal debts, and a homogeneous arrangement of executive, judicial and administrative functions. Many of the existing functions cannot be constitutionally amalgamated or disturbed by any attempted consolidation. The autonomy of the counties must be preserved until changed by constitutional amendment. Boards of supervisors must be re-established in the counties of Kings and New York, and the board already existing in the county of Richmond must be retained.* The parts of the consolidated territory lying in the county of Queens will still remain in that county, unless annexed to other counties; but such annexation cannot affect existing Senate, Assembly or Judicial districts. The constitutional offices provided for each county, including certain judicial tribunals, must continue. Certain police and administrative functions cannot be wholly destroyed or made subordinate to city supervision; and throughout the consolidated city there must continue to be a dual government, partly the creature of the Constitution, under constitutional limitations and restrictions and beyond the control of the city government, and partly the creature of statutes, providing for municipal government within the same territorial limits. How far the Legislature may go in amalgamating city and county governments will be one of the important problems for the consideration of the commission provided by the bill.

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* **Const. 1894, art. 3, § 26, modified as to counties in Greater New York by an amendment approved in 1899.**

The bill declares in substance that consolidation shall become complete on the first day of January, 1898, but this declaration evidently cannot have the full force which its terms would indicate, because no provision is made for the government of the consolidated territory, and it is expressly provided by section 2 that 'for all purposes the local administration and government of the territories in section one of this act enumerated shall remain in and be performed and exercised by the respective bodies, politic and corporate, to which they are now intrusted, and except so far as hereafter changed by authority of law, and for such purposes, and until such time and except to such extent, the said bodies politic and corporate shall continue to exist, and to possess the same rights, properties, privileges and franchises, and to exercise the same powers, and discharge the same duties, and be subject to the same liabilities, and the various officers thereof shall be elected or appointed in the same manner as heretofore.' By the terms of the bill there can be no disturbance of existing conditions until the Legislature has made further provision for the government of the new city.

Practically the only effective provision in the bill is found in the third section, which provides for the appointment of a commission to prepare and submit to the next Legislature 'bills for the government of the municipal corporation, the mayor, aldermen and commonalty of the city of New York, as by this act enlarged.' This commission will be charged with the performance of a difficult task, and it is urged that it cannot within the brief time given by the bill prepare a charter for this great municipality which will be satisfactory to the next Legislature and the inhabitants of the new city, as well as to the other people of the State, who necessarily feel a deep interest in this subject. This possibility is not however a sufficient objection to warrant my disapproval of the bill.

The plan for the proposed consolidation began to take definite shape in 1890, when by chapter 311 of the laws of that year a commission was created 'to inquire into the expediency of consolidating the various municipalities in the State of New York, occupying the several islands in the harbor of New York, and to report from time to time their conclusions thereon to the Legislature, with such recommendations as they may deem proper for adoption and their reasons therefor.' The commission gave the subject full and careful consideration, with the result that a new city was proposed including the territory already indicated, namely, the counties of New York, Kings, Richmond, and parts of the county of Queens. By chapter 64 of the laws of 1894 the question of the proposed consolidation was submitted to the vote of the people of the territory included in the plan as then outlined, which vote was to be and was in fact taken at the general election in November, 1894. Upon this vote there was a majority of 44,188 in favor of consolidation.

The commission appointed by the law of 1890 presented a report to the Legislature of 1895, setting forth, by communities, the result of the vote, discussing some questions incident to consolidation, and proposing a bill providing for the preparation of a charter for the government of the consolidated city. No bill was passed at that session, but the commission's bill with some modifications has been passed this year and is the bill now under Executive consideration.

In accordance with the requirements of the new Constitution the bill was sent to the cities of New York, Brooklyn and Long Island City for their action.[1] It was accepted by the municipal authorities of Long Island City, but was returned by the mayors of Brooklyn and New York without acceptance. In a communication addressed to the Legislature the mayor of Brooklyn says that 'under favorable conditions and on fair terms, consolidation of the municipalities referred to in this bill may be of decided benefit;' but he objects to the bill on the grounds, among others, that it is not essential to the well-being of the city of Brooklyn that it be consolidated with the other municipalities named, 'irrespective of terms or conditions;' that under the terms of this bill it is possible, perhaps probable, that no charter will ever be submitted as a complete instrument, but that consolidation may be effected if at all by a series of separate bills, that the creation of a new city will necessitate the re-establishment of a board of supervisors in the county of Kings,' that 'it would be most disastrous to the interests of good, economical government to have that board and the old forms of county government restored to life;' and because it contains no provisions requiring the terms and conditions of consolidation to be submitted to the people.

The mayor of New York in returning the bill says that 'the commercial interests of New York demand consolidation, the geographical location of the city and its natural facilities as a commerce point, mark it as the metropolis of this continent; its commercial and manufacturing interests will establish it as such, and the very fact of a municipality so largely increased in population and boundaries will, of itself, advance the value of property, invite capital, enlarge commerce, and in innumerable other ways increase the potential power inherent in so large a community.' But he suggests that it is a reversal of the logical steps to be taken to first declare, as in the present bill, the consolidation of the territory named, and leave it to the future to bring about the methods of such consolidation. He points out that in his judgment the provision for a commission to frame a charter and report to the Legislature of 1897 does not provide sufficient length of time in which to accomplish the best results, and further suggests that the Legislature will probably be called upon to grant an extension of time for the submission of a proposed charter, leading possibly to the establishment of commissions for the temporary government of the new city. He does not favor the submission of a proposed charter to a popular vote, but thinks that consolidation should not be decreed until the Legislature adopts a charter finally uniting the sections to make up the Greater New York. He regards consolidation as inevitable, and objects only to the method of effecting it contemplated by this bill.

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[1] Const. 1894, art. 12, § 2.

The three cities named are the only municipalities affected, to which the Constitution requires a submission of the pending bill. It may be properly assumed that a charter prepared by the commission will provide fair terms to all localities affected, and as the mayors of the three cities are to be members of the commission, their suggestions will have great weight in framing a charter upon conditions favorable to their respective cities. All localities affected will be heard, and all interests will be considered by the commission, and until a charter or plan of government which may be prepared shall be approved by the Legislature, there can be no change of existing conditions.

In my annual message to the Legislature of 1895 attention was called to this subject, and I then suggested that it 'would be the duty of the Legislature to take such further steps as are necessary to carry into effect the wishes of the people,' as expressed by the vote taken in 1894.* I also suggested that 'a commission be at once created composed of the most capable citizens of the various localities interested, and charged with the power and duty to frame a charter.' but no action was taken by that Legislature. In my annual message to the Legislature of 1896 I again called attention to the matter and suggested that ' it deeply concerns the interests and wishes of more than one-half of the population of the State, comprised in several contiguous municipalities,' and recommended that earnest and careful consideration be given to the subject, and that some conclusive action be taken regarding it at that session.* The result of legislative deliberation appears in this bill, whose chief object as already suggested is the appointment of a commission to consider the questions connected with the preparation of a proper charter.

**Ante*, p. 552.

To the commission provided by the bill the pending problems concerning consolidation are for the time being transferred, and I have no hesitation in expressing the conviction that it will be able to devise a scheme of municipal government alike creditable to its members, competent for the great purposes desired, and promotive of the highest interests of the State."

May 26.

Veto of Assembly bill, providing for a normal school at Ramapo.

"This bill provides for an appropriation of fifty thousand dollars to establish a normal school in the town of Ramapo in the county of Rockland. There does not seem to be any apparent necessity for the establishment of another normal school. The State already has eleven of these schools located respectively at Albany, Brockport, Buffalo, Fredonia, Geneseo, New Paltz, Oneonta, Oswego. Plattsburgh and Potsdam; and by an act passed in 1893 another normal school which is not yet in operation, was established at Jamaica. These schools are well distributed through the State and there seems to be no general demand for the establishment of another at this time.

**Ante*, p. 674.

In a communication to the Legislature of 1895 on the subject of normal schools, I took occasion to suggest that: 'While all the normal schools have done good work in the promotion of education, I think it is generally conceded that the State has gone as far as it should go at present in expenditures for their extension.'* A bill for the establishment of a normal school at Millerton† failed to receive Executive approval last year for the reasons indicated, and I think there is not now sufficient reason to change the policy adopted at that time."

May 28.

Veto of items in the supply bill, chapter 950.

First. "For the payment of expenses in the investigation of charges against State officers, ordered by the Governor, the sum of five thousand dollars, or so much thereof as may be necessary."

This item seems to be unnecessary for the reason that the appropriation for contingent expenses of the Executive Department will probably be sufficient for the purpose here indicated.

Second. "For the operation, maintenance and repair of a drawbridge known as Drake's drawbridge, spanning the Wappinger's creek near the village of New Hamburgh, in the county of Dutchess, for the year ending March 1, 1897, as provided by chapter 239 of the laws of 1892, as amended by chapter 401 of the laws of 1893, the sum of five hundred dollars, or so much thereof as may be necessary, to be paid upon the order of the Comptroller and the Superintendent of Public Works."

**Ante*, p. 594.

† See omnibus veto, *ante*, p. 622.

This appears to be a duplication in part of an item in the supplemental supply bill upon the same subject, and that has already been approved.

May 28.

Veto of items in the supplemental supply bill, chapter 949.

First. "The sum of sixteen thousand seven hundred and twenty-eight dollars, or so much thereof as may be necessary, payable by the Treasurer on the warrant of the Comptroller and the Superintendent of Public Works, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purpose of erecting a breakwater and lighthouse on Keuka lake, in the county of Yates, and for the purpose of completing the piling of the marsh at the outlet on the north side of said lake, said sum to be expended by and under the direction of the Superintendent of Public Works."

This seems like a large and unnecessary expenditure of money for this purpose at this time, and I think it should not now be made.

Second. "For the Comptroller for the payment of money illegally assessed and paid by the German Looking Glass Plate Company into the treasury under the provisions of chapter five hundred and forty-two of the laws of eighteen hundred and eighty, and the several acts amendatory thereof, the sum of twelve hundred and seventy-nine dollars and sixty-three cents."

Third. "For the Comptroller, for the payment of the claim of the General Electric Company, for taxes erroneously paid to the Comptroller under the corporation tax laws, the sum of fifteen thousand and fifty-eight dollars and fifty cents, or so much thereof as may be necessary."

I am informed that these items represent a readjustment and resettlement by the Comptroller of taxes claimed to be erroneously paid by these companies. The Comptroller is required by the act authorizing such resettlement to give credit to the companies upon future taxes to be paid by them; and it is the general practice of the Comptroller's office to credit the amounts fixed upon such resettlement of corporation taxes, upon taxes subsequently assessed against such corporations. These seem like proper cases for the application of that rule.

It has been suggested that a general law should be enacted, or else the law of 1889 amended, providing a different scheme for the adjustment and settlement of claims of corporations for taxes erroneously paid into the State treasury. Under the present law the Comptroller is required to give credit for the amount of taxes which a corporation is deemed to have erroneously paid, and the corporation has the benefit of this credit upon payment of future taxes. In some instances the amounts determined to have been overpaid are very large, and the subsequent taxes payable by the corporation are quite small, so that it will require a long term of years for the corporation to work out the credit given, and if as in some instances a corporation discontinues business after such resettlement, it can receive no benefit from a credit on the books of the Comptroller. If it is determined that the State has money belonging to a corporation or individual, erroneously paid into the State treasury, there seems to be no good business reason why it should not be immediately paid over, leaving all questions relating to the payment of future taxes to be disposed of when they arise.

The supplemental supply bill of 1895 contained an appropriation similar to this, and it was disapproved substantially for the reasons herein indicated. I think the same course should be adopted with reference to these items.[26]

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[26] The Governor's suggestion that a tax found to have been erroneously assessed against a corporation be immediately refunded, instead of giving the corporation credit on future taxes, was not adopted, but in 1903, by

May 28.

Memorandum filed with Assembly bill, chapter 980, to incorporate the Albany and Bath-on-Hudson Bridge Company. Approved.

"This bill was transmitted to the city of Albany for action under the provisions of section two of article twelve of the Constitution, and was returned by the mayor of that city not accepted. I think that the bill is not a special city law within the meaning of the Constitution, and that it need not have been transmitted to the city."

May 28.

Veto of an Assembly bill, relating to the civil service.

"The object of this bill seems to be to exempt from civil service examination persons applying for positions as assistant city attorney or assistant corporation counsel.

The bill seems to be unnecessary for the reason that the mayor of each city is authorized to prescribe regulations for the admission of persons into the civil service of such city, which regulations are subject to the approval of the New York Civil Service Commission. I am informed that officers like those named are not now subject to examination in any city in the State, and persons holding these positions are almost necessarily lawyers who before admission to the bar must have passed an examination by the Regents, and by the Law Examiners or the Supreme Court under rules prescribed by the Court of Appeals. Their work as city attorney or corporation counsel is professional, and of the same general character as that in which they would otherwise engage in private practice; and it is prob-

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chapter 642 amending section 195 of the Tax Law, a corporation which was theretofore or might be thereafter entitled to a credit upon a resettlement of its taxes was authorized to assign the claim or any part of it to another corporation liable to taxation, and the assignee might use the assigned claim by credit in payment of a tax due from it.

ably for this reason that it is not considered necessary to subject them to a civil service examination for the performance of official duties which are simply professional."

May 29.

Veto of 55 Senate bills for the benefit of the following persons employed on the canals: M. M. Manville; Thomas S. Croly; Charles R. Lisk; S. S. Bennett; H. F. Fox; Henry C. Jillson; Frank Hotchkiss; Charles H. Bartlett; Isaac Mincher; Elmer Curtis; Everett W. Allen; Jacob Galster; William H. Brackett; Frank G. Parsons; W. L. Misner; L. G. Burton; Bertram E. Stewart; Wm. Hay; Ansel E. Wright; Wm. F. Wheelock; W. H. Lintner; Charles D. W. Poole; Louis Meyer; John W. McClelland; Joseph McGrain; W. K. Williams; A. A. Willington; J. P. Monty; R. G. Lay; Michael Morey; James W. Strait; Philo Bundy; Robert D. Kennedy; Peter O'Neil; Wm. Stryker; R. R. Stowell; John H. Price; Geo. Van Deusen; Wm. A. Lenway; Andrew Dorn; George E. Terry; Isaac G. Braman; Leonard Clift; M. Traffarn; George R. Cornish; George D. Cull; Charles H. Sarle; Thomas Keefe; Hiram Hyde; Henry Kraft; John E. Jones; Frank Perry; Robert Calderwood; J. H. Pearson; D. W. Fisher.

"These bills make specific appropriations of money for the several persons above named, without stating any particular object or occasion, and it is provided in each bill that payment shall be made only by the persons named 'executing to the people of the State of New York a release of all claims and demands whatsoever growing out of the performance of his duties in the public works department of this State during the year 1895.'

By chapter 234 of the Laws of 1896 jurisdiction was conferred upon the Board of Claims to hear, audit and determine the claims of the persons named, and to award such compensation for services rendered and expenditures incurred by them 'as inspectors of canals, collectors of canal statistics, clerks to collectors of canal statistics, engineers and timekeepers in the State of New York between the 16th day of April, 1895, and the 15th day of February, 1896, as may be just and equitable.'

It is conceded that these men have rendered services to the State for which they have received no compensation, and this law seems to afford ample opportunity for them to establish their claims against the State and receive payment therefor. By the bills now under consideration the claims seem to be limited to the 31st day of December, 1895, while under the law cited claims may be presented for services rendered prior to February 15, 1896. The Board of Claims is a tribunal provided by the State for the hearing and determination of claims against it, and these claims were I think properly submitted to that Board. After having submitted these matters to the Board of Claims the propriety of these bills may well be doubted, especially in view of the provisions of section nineteen of article three of the Constitution, which provides that 'The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.' I do not think that these bills should be approved."

May 30. The omnibus veto included the following bills:

Senate bill number 1099, entitled "An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of the Silversmiths' Company against the State of New York."

Senate bill number 1196, entitled "An act to amend chapter nine hundred and seventy-four of the laws of eighteen hundred and ninety-five, entitled 'An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York and the different counties thereof.'"

Senate bill number 1308, entitled "An act to amend section one hundred and thirty-two of article six of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two as amended by chapter nine hundred and seventy-four of the laws of eighteen hundred and ninety-five."

Senate bill number 1381, entitled "An act to incorporate the American Title Insurance and Trust Company."

Senate bill number 685, entitled "An act to amend section seven hundred and one of the Penal Code, relative to houses of refuge."

Senate bill number 1076, entitled "An act to amend section two hundred and twenty of the Code of Criminal Procedure."

Senate bill number 934, entitled "An act to amend the Code of Civil Procedure."

Senate bill number 1353, entitled "An act to amend title one, chapter four, part second of the Revised Statutes in reference to limited partnerships."

Senate bill number 1267, entitled "An act to provide for the time of the annual town meeting in the several towns of the counties of Albany and Onondaga."

Senate bill number 1471, entitled "An act to amend the consolidated school law in relation to Richmond county."

Senate bill number 1751, entitled "An act amending an act entitled 'An act to establish free schools in district number three of the town of Flushing,' passed April sixteenth, eighteen hundred and fifty-seven, as amended by chapter four hundred and thirty-four of the laws of eighteen hundred and eighty-five, and to increase the school tax rate therein."

Senate bill number 1292, entitled "An act providing for the assessment and collection of village taxes in the village of Tonawanda, Erie county."

Senate bill number 1438, entitled "An act to amend chapter eighty-three of the laws of eighteen hundred and sixty, entitled 'An act to consolidate and amend the several acts relating to the village of Warsaw, and to enlarge the powers of the corporation of said village.' "

Senate bill number 602, entitled "An act to authorize the board of trustees of the village of Waterville, Oneida county, to raise money by tax for the purpose of open-air concerts."

Senate bill number 1439, entitled "An act to amend chapter four hundred and twenty-six of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for the preservation of the public health and the protection of persons and property from the waters of the Chemung river and its tributaries within the corporate limits of the city of Corning, and to restrain and control such waters, and to provide the means to secure such protection and restraint.' "

Senate bill number 905, entitled "An act to amend the charter of the city of Ithaca."

Senate bill number 1432, entitled "An act to further amend chapter one hundred and twenty of the laws of eighteen hundred and eighty-six, entitled 'An act to revise the charter of the city of Lockport,' relative to wages of laborers to be paid by contractors, and preference to be given."

Senate bill number 1538, entitled "An act to legalize certain bonds of the city of Newburgh, dated April first, eighteen hundred and ninety-six, to provide for the payment of the expense of the paving of Water street, between South and Broad streets, in said city, issued in pursuance of the authority conferred on said city by chapter three hundred and one of the laws of eighteen hundred and ninety-four."

Senate bill number 1389, entitled "An act to amend chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, entitled 'An act to incorporate the city of Newburgh,' and the several acts amendatory thereof."

Senate bill number 221, entitled "An act to amend chapter ten hundred and seventeen of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the board of claims to hear, audit and determine certain claims of the city of Rochester against the State.' "

Senate bill number 993, entitled "An act to regulate the exercise of their franchises by certain public corporations by requiring them to afford facilities for the transaction of the public business to certain public officers and employees of the city of New York."

Senate bill number 1602, entitled "An act in relation to the construction and management of the public driveway and parkway in the city of Brooklyn, authorized and acquired under and in pursuance of the provisions of chapter seven hundred and fifty-eight of the laws of eighteen hundred and ninety-four, entitled 'An act to provide for the selection, laying out, construction and maintenance of a public driveway and parkway, and for the acquisition of riparian rights in connection therewith in any county of this State which contains a city, the population of which city is in excess of eight hundred thousand and the boundaries of which city are not coterminous with those of said county, and also providing the means of payment therefor, and maintenance thereof, and creating a department of parks for said county,' as amended by chapter nine hundred and thirty-one of the laws of eighteen hundred and ninety-five."

Senate bill number 983, entitled "An act to transfer the powers and duties of street and sewer commissioners of the twenty-ninth ward, late town of Flatbush, to the commissioner of city works of the city of Brooklyn."

Senate bill number 997, entitled "An act to amend section twenty-one of chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to the public health.'"

Senate bill number 1687, entitled "An act to legalize and confirm the official acts of H. Noyes Green, a notary public."

Assembly bill number 1667, entitled "An act for the better security of the lives of passengers on the waters of the State of New York, not covered by the laws governing the United States steamboat inspection service, and making an appropriation therefor."

Assembly bill number 2548, entitled "An act to authorize the board of claims to hear and audit the claims of certain auctioneers and to make awards thereon."

Assembly bill number 2410, entitled "An act conferring jurisdiction upon the court* of claims to hear, audit and determine the amount of the claim of Henry A. Frost against the State, and to make an award therefor."

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* So in the original. The Board of Claims became a court in 1897.

Assembly bill number 2771, entitled "An act for the relief of Abial B. Parks for failure of title of lands derived from the State of New York."

Assembly bill number 2411, entitled "An act to confer jurisdiction upon the board of claims to hear, audit and determine the claim of Ross and Sandford against the State, for work, labor and services done and performed in and about the construction of the Shinnecock and Peconic Bays canal, and for the amount of money deposited by said Ross and Sandford as security for the performance of said work, and to make an award thereon."

Assembly bill number 1954, entitled "An act to authorize the board of claims to hear, audit and determine the claim of Abigail J. Sadler, and to make an award thereon."

Assembly bill number 1730, entitled "An act to amend chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two, entitled 'An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York and the different counties thereof,' in relation to wild fowl."

Assembly bill number 1051, entitled "An act amending the game law, and the act amendatory thereof, in relation to certain fish that may be caught through the ice in lakes named."

Assembly bill number 746, entitled "An act to amend section one hundred and forty-three of the fisheries, game and forest law, so as to prohibit eel-weirs in the Chemung river and its tributaries in the counties of Steuben and Chemung."

Assembly bill number 2594, entitled "An act to amend the insurance law relating to the authority of an agent of a foreign fire insurance corporation."

Assembly bill number 2397, entitled "An act to amend chapter five hundred and sixty-six of the laws of eighteen hundred and ninety, entitled 'An act in relation to transportation corporations, excepting railroads, constituting chapter forty of the general laws,' and known as the transportation corporations law, relating to inspectors of gas meters."

Assembly bill number 2540, entitled "An act to amend section two hundred and six of the Code of Criminal Procedure relative to the payment of fees for transcripts of depositions and testimony."

Assembly bill number 1341, entitled "An act to amend section two hundred and twenty of the Code of Criminal Procedure, relating to justices' criminal docket."

Assembly bill number 741, entitled "An act to amend subdivision eight of section four of title one of chapter thirteen of part one of the Revised Statutes, in relation to the exemption from taxation of the real property of ministers or priests."

Assembly bill number 1980, entitled "An act to amend the Revised Statutes, in relation to the collection of taxes."

Assembly bill number 1173, entitled "An act to authorize the continuance and maintenance of a public highway in Westchester county, from Peekskill to a point on the boundary line between the States of New York and Connecticut near North Salem."

Assembly bill number 1767, entitled "An act for the protection of fur-bearing animals in the counties of this State."

Assembly bill number 1090, entitled "An act authorizing county clerks and their deputies to take acknowledgments and proofs of instruments."

Assembly bill number 2429, entitled "An act fixing the compensation of inspectors of election, poll clerks and ballot clerks in certain counties."

Assembly bill number 2738, entitled "An act to abolish the board of water commissioners of the village of Cohocton, county of Steuben."

Assembly bill number 276, entitled "An act to reduce expenses in the town of Cortlandt, in the county of Westchester, and provide for salaries of justices of the peace and overseers of the poor for said town."

Assembly bill number 1481, entitled "An act relating to the hounding of deer in the towns of Dresden and Putnam, in the county of Washington."

Assembly bill number 1978, entitled "An act in relation to the enforcement and collection of taxes in and for the village of Elmwood, in the county of Onondaga."

Assembly bill number 1484, entitled "An act to authorize the village of Plattsburgh to borrow money for the improvement of the streets, sidewalks and sewers within its limits."

Assembly bill number 2423, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' and the act amendatory thereof, in relation to public improvements."

Assembly bill number 2760, entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled 'An act to amend and consolidate the several acts in relation to the charter of the city of Rochester,' and the acts amendatory thereof and supplemental thereto, and to repeal section seventeen and subdivision twenty-six of section forty of said act."

Assembly bill number 171, entitled "An act to repeal an Act entitled 'An act to authorize the Queen City Gaslight Company of Buffalo, New York, to supply gas in the city of Buffalo.' "

Assembly bill number 2446, entitled "An act to authorize the common council of the city of Hornellsville, to pay a portion of the liquor tax moneys received in such city, to the treasurer of Saint James' Mercy hospital."

Assembly bill number 1898, entitled "An act authorizing the commissioners of the alms-house of the city and town of Newburgh, in the county of Orange, to pay to Saint Luke's Home and Hospital, of Newburgh, a sum not to exceed one thousand dollars per annum, toward the maintenance of the poor of said city, who may be admitted into said home and hospital."

Assembly bill number 2018, entitled "An act to amend chapter one hundred and ninety-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to authorize the selection, location and acquiring of certain grounds for public parks and parkways, in and near the city of Rochester, and to provide for the maintenance and embellishment thereof,' as amended by chapter nine hundred and fifty-eight of the laws of eighteen hundred and ninety-five."

Assembly bill number 2706, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter two hundred and sixty-nine of the laws of eighteen hundred and ninety-two, in relation to the cleaning of the streets, avenues, public places, wharves, piers and heads of slips in said city."

Assembly bill number 2045, entitled "An act to amend chapter six hundred and eighty of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to the elections, constituting chapter six of the general laws.'"

Assembly bill number 1117, entitled "An act to amend 'The Executive Law,' relating to the duties and powers of the attorney general."

Assembly bill number 73, entitled "An act in relation to the reassessment of property illegally assessed."

Assembly bill number 1893, entitled "An act to amend chapter three hundred and eighty-five of the laws of eighteen hundred and seventy, entitled 'An act to regulate the hours of labor of mechanics, workingmen and laborers in the employ of the State, or otherwise engaged on public works,' as amended by chapter six hundred and twenty-two of the laws of eighteen hundred and ninety-four."

Assembly bill number 1400, entitled "An act for the protection of mechanics and others."

Assembly bill number 1719, entitled "An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the State of New York,' and the acts amendatory thereof, relating to the law department."

Assembly bill number 928, entitled "An act to amend chapter three hundred and forty-eight of the laws of eighteen hundred and eighty-five, entitled 'An act to authorize the appointment of stenographers for grand juries and to fix the compensation of such stenographers,' as amended by chapter eighty-two of the laws of eighteen hundred and ninety-four."

Assembly bill number 936, entitled "An act to provide for the encouragement of the manufacture of sugar and to provide a compensation therefor."

Assembly bill number 1497, entitled "An act to provide for the assessment of dogs on the Tonawanda Indian Reservation in the counties of Erie and Genesee."

Assembly bill number 1699, entitled "An act to provide for the widening of Newtown creek and to establish the bulkhead lines thereof."

Assembly bill number 1869, entitled "An act to promote the public welfare by providing for the creation of trusts for receiving and holding property, real and personal, for the purpose of maintaining, or aiding to maintain, any humane, charitable or religious society or corporation within this State."

Assembly bill number 921, entitled "An act to enable certain aliens to take, hold and convey real estate."

Assembly bill number 1642, entitled "An act to legalize the official acts of E. Merriam Bagg, a justice of the peace of the town of West Turin, county of Lewis, and to authorize him to file the certificate of the town clerk, as to the filing of his bond, and to take and subscribe the official oath."

Assembly bill number 2516, entitled "An act to legalize the acts of William Hale and Frank W. Reid, as justices of the peace in and for the town of Johnstown, in the county of Fulton."

The following bills were not accepted by the cities which they affect:

Senate bill number 71, entitled "An act to incorporate the Ward's Island Bridge Company, for the purpose of constructing and maintaining a permanent bridge for passenger and other

traffic over the waters between the twenty-third ward of New York city and Long Island City, in the State of New York, together with all necessary connections, appurtenances and approaches thereto and stations."

Senate bill number 327, entitled "An act to amend sections thirty-one hundred and thirty-one and thirty-two hundred and twenty-one of the Code of Civil Procedure, relating to actions by employees for wages and materials furnished."

Senate bill number 1092, entitled "An act to amend the Code of Civil Procedure in relation to the compensation of jurors."

Senate bill number 1413, entitled "An act to authorize the supervisors of Oneida county to appoint side path commissioners to tax cycles and to expend the funds raised thereby in the construction of side-paths for cycles."

Senate bill number 1200, entitled "An act to further amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo.' "

Senate bill number 893, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo' and the acts amendatory thereof."

Senate bill number 1703, entitled "An act to amend chapter eight hundred and five of the laws of eighteen hundred and ninety-five, entitled 'An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled "An act to revise the charter of the city of Buffalo." ' "

Senate bill number 1297, entitled "An act in relation to unpaid taxes, water rates and rents in Long Island City."

Senate bill number 1349, entitled "An act to provide for an additional supply of water in Long Island City."

Senate bill number 945, entitled "An act to amend chapter three hundred and one of the laws of eighteen hundred and ninety, entitled 'An act in relation to certain parks and parade ground in Long Island City.' "

Senate bill number 1143, entitled "An act authorizing the city of Rochester to acquire certain lands for park purposes."

Senate bill number 833, entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Senate bill number 1513, entitled "An act in relation to the compensation of the officers of the uniform force of the fire department in all cities of the state having, according to the last census, a population exceeding fifteen hundred thousand."

Senate bill number 477, entitled "An act in relation to the salaries of attendants of the Supreme Court in the first judicial district, and the appellate division thereof in the first department, and the court of general sessions of the peace in and for the city and county of New York."

Senate bill number 1541, entitled "An act to increase the salary of the commissioner of street improvements of the twenty-third and twenty-fourth wards of the city of New York, and his deputy."

Senate bill number 734, entitled "An act in relation to the jurisdiction of the department of public parks in the city of New York over certain streets in said city."

Senate bill number 634, entitled "An act for the protection of the public parks of the city of New York."

Senate bill number 88, entitled "An act for the relief of Sophia C. Vandervoort, widow of Charles Vandervoort, deceased, her successors or assigns."

Senate bill number 1640, entitled "An act to permit Isidor Ball, of the city of New York, to maintain an action brought by him against the mayor, aldermen and commonalty of the city of New York, for negligence."

Senate bill number 1691, entitled "An act to enable the board of fire commissioners of the city of New York to hear and determine the claim of James P. Reilly, for reinstatement in the fire department of the city of New York as a fireman of the first grade."

Senate bill number 1633, entitled "An act to amend chapter nine hundred and seventy-eight of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the board of fire commissioners of the city of New York to inquire into and determine the claim of Margaret Hudson to be placed upon the pension roll of the fire department of said city, and to make an allowance to her for pension.'"

Senate bill number 1255, entitled "An act to amend chapter one hundred and eighty of the laws of eighteen hundred and eighty-four, entitled 'An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York, and to provide a pension fund for the police department in New York city.'"

Senate bill number 994, entitled "An act to amend subdivision four of section eighty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting the public interests in the city of New York.'"

Senate bill number 976, entitled "An act to repeal section two of chapter six hundred and ninety-one of the laws of eighteen hundred and ninety-five, entitled 'An act to amend section twenty-one hundred and thirty-three of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relative to Hell Gate Pilots.'"

Senate bill number 1346, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' and the acts amendatory thereof, relating to the fire department of the city of New York."

Senate bill number 1692, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' in relation to the department of buildings."

Senate bill number 1364, entitled "An act to amend sections four and five of chapter six hundred and thirty-eight of the laws of eighteen hundred and ninety-five, being an act entitled 'An act in relation to the common lands and common land fund of the late town of Gravesend, now the thirty-first ward of the city of Brooklyn.'"

Senate bill number 608, entitled "An act to amend chapter nine hundred and fifty-five of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the common council of the city of Brooklyn to alter the commissioners' map of said city by widening Kent avenue between South Eighth street and Broadway.'"

Senate bill number 811, entitled "An act to amend chapter six hundred and two of the laws of eighteen hundred and ninety-two, entitled 'An act to secure the registration of plumbers and the supervision of plumbing and draining in the cities of the State of New York.'"

Assembly bill number 2433, entitled "An act to authorize the supervisors of Chemung county to appoint side-path commissioners and to expend the funds raised by the taxation of cycles in the construction of side-paths for cycles."

Assembly bill number 2329, entitled "An act to provide for a supply of water in the city of Albany."

Assembly bill number 2303, entitled "An act to amend chapter six hundred of the laws of eighteen hundred and ninety-three, entitled 'An act to reduce, confirm and levy certain assessments in the city of Albany, to provide for the payment thereof, and in relation to certain sales thereunder' as amended by chapter six hundred and twenty-nine of the laws of eighteen hundred and ninety-four."

Assembly bill number 2116, entitled "An act to authorize the construction of a viaduct on Knox street, in the city of Albany from the north curb line of Central avenue to the south curb line of Canal street, for the improvement of Knox street between State street and the north line of Livingston avenue, and to provide for the expenses thereof."

Assembly bill number 2295, entitled "An act to amend chapter two hundred and eighteen of the laws of eighteen hundred and eight-four, entitled 'An act to regulate the commitment and discharge of certain prisoners, tramps and vagrants in Albany county, and to prescribe the effect thereof, to provide for the support of the prisoners in the jail in the city of Albany, and to fix the duties and compensation of the sheriff of said county and of certain employees in the jail in said city.'"

Assembly bill number 2632, entitled "An act to amend chapter five hundred and ninety of the laws of eighteen hundred and ninety-four, entitled 'An act to provide for the repayment of moneys to the chamberlain of the city of Albany, heretofore paid to the superintendent of public works, for the construction of a lift or hoist bridge on Water street, over the Erie canal in the city of Albany, and the repayment of the same by the said city.'"

Assembly bill number 1941, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' in relation to assessments."

Assembly bill number 2077, entitled "An act to amend section one of chapter three hundred and eighty of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for increasing the water supply of the city of Dunkirk.'"

Assembly bill number 1378, entitled "An act to authorize the establishment and operation of a system for lighting the city of Lockport with electric light and to empower the common council of said city to raise the necessary funds for that purpose."

Assembly bill number 1760, entitled "An act to amend chapter four hundred and sixty-one, of the laws of eighteen hundred and seventy-one, entitled 'An act to revise the charter of Long Island City,' in relation to moneys received by the treasurer."

Assembly bill number 1568, entitled "An act to provide for certain improvements in the streets, avenues, highways, boulevards and public places in Long Island City, and for the payment of the expenses thereof."

Assembly bill number 2583, entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Niagara Falls.'"

Assembly bill number 2412, entitled "An act to authorize the board of supervisors of Monroe county to appoint side-path commissioners, to tax cycles and to expend the funds raised thereby in the construction of side-paths for cycles."

Assembly bill number 2495, entitled "An act authorizing the city of Rochester to issue bonds to pay the expense of remodeling the city hall building."

Assembly bill number 2217, entitled "An act authorizing the city of Rochester to issue its bonds for water works purposes."

Assembly bill number 2491, entitled "An act authorizing the city of Rochester to issue its bonds for the purpose of redeeming bonds heretofore issued for building a free academy."

Assembly bill number 1682, entitled "An act to amend chapter three hundred and seventeen of the laws of eighteen hundred and ninety-one, entitled 'An act to authorize the construction and maintenance of park boulevards in and near the city of Rochester, and to provide for the cost and expense thereof."

Assembly bill number 990, entitled "An act to authorize the city of Syracuse to levy a tax to provide the means to defray the cost of constructing a stone culvert over Harbor brook, in Lake View avenue, in the city of Syracuse."

Assembly bill number 2514, entitled "An act to authorize the city of Syracuse to borrow money by the issue of bonds and to provide for the appointment of commissioners for the acquiring of title to the necessary land for a site for, and the erection of, a new high school in said city."

Assembly bill number 2686, entitled "An act to amend chapter eighteen of the laws of eighteen hundred and sixty-two, entitled 'An act to revise the charter of the city of Utica,' and the several acts amendatory thereof."

Assembly bill number 2561, entitled "An act to amend chapter three hundred and forty-one of the laws of eighteen hundred and ninety-one, entitled 'An act to provide for the removal of the Genesee street bridge over the Erie canal in the city of Utica, and for the erection of an iron bridge and hoist or lift bridges, with necessary approaches in its stead, and making an appropriation therefor, and authorizing the city of Utica to raise money for the construction thereof,' as amended by chapter five hundred and sixty of the laws of eighteen hundred and ninety-three."

Assembly bill number 1244, entitled "An act providing for the transcribing of indictments in the city and county of New York."

Assembly bill number 2143, entitled "An act to authorize the board of fire commissioners of the city of New York to inquire into and to determine the claim of William Mahoney to be placed upon the pension roll of the fire department of said city."

Assembly bill number 2492, entitled "An act in relation to the uniforms of the officers and members of the fire and police departments of the city of New York."

Assembly bill number 2393, entitled "An act in relation to the assistant clerks of the city court of New York."

Assembly bill number 2684, entitled "An act to provide for the audit and payment of legal claims and demands against the town of Westchester, the village of Williamsbridge, the village of Eastchester and the village of Wakefield, now a part of the city and county of New York."

Assembly bill number 2260, entitled "An act relating to appointment of employees of the fire department of the city of New York to the uniformed force of the said department."

Assembly bill number 1580, entitled "An act providing for the removal of incumbrances and obstructions upon the streets, sidewalks and public grounds in the twenty-third and twenty-fourth wards in the city of New York."

Assembly bill number 2758, entitled "An act to amend title two, section four hundred and sixty-three of the consolidation act of the city of New York, in relation to the power of the board of fire commissioners of the said city."

Assembly bill number 2385, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' and the acts amendatory thereof, relating to the department of finance."

Assembly bill number 340 entitled "An act to provide for the lighting of the Brooklyn bridge during fogs."

Assembly bill number 2710, entitled "An act relating to the commitment of female delinquents in the city of Brooklyn and county of Kings to the Wayside Home; and concerning the public interests in the city of Brooklyn and county of Kings."

Assembly bill number 1394, entitled "An act regulating the running of cars on the New York and Brooklyn bridge."

Assembly bill number 1824, entitled "An act in relation to the wages of employees on public works in the city of Brooklyn."

Assembly bill number 2174, entitled "An act to amend section six of title two of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the city clerk."

Assembly bill number 1929, entitled "An act to amend title sixteen of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to a pension fund for the members of the park police."

Assembly bill number 2301, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public

interests in the city of Brooklyn,' as amended by chapter four hundred and eighty-one of the laws of eighteen hundred and ninety-four and chapter five hundred and thirty nine of the laws of eighteen hundred and ninety-five, relating to fire limits."

The following bills were not returned by the mayors of the cities which they affect, within the fifteen days specified by the Constitution, and are therefore not approved:

Senate bill number 1240, entitled "An act to reduce the width of Second avenue in Long Island City, in the county of Queens."

Assembly bill number 1836, entitled "An act to extend the time of payment of certain assessments for paving Pine avenue in the city of Albany, and in relation to certain sales thereunder."

Assembly bill number 1401, entitled "An act authorizing the city of Elmira to issue bonds for providing and equipping a building for the fire department."

Assembly bill number 2057, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled "An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city,' relating to Onondaga creek and Harbor brook."

The following bills were not acted upon by the cities which they affect, as is required by the Constitution, and therefore are not approved:

Senate bill number 1309, entitled "An act in relation to supplying the city of Mount Vernon with pure and wholesome water."

Assembly bill number 2159, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon.'"

Assembly bill number 1727, entitled "An act to amend chapter one hundred and four of the laws of eighteen hundred and sixty-

seven, entitled 'An act to provide for draining and filling up of the old channel of Onondaga creek, between the south bounds of the city of Syracuse and Onondaga street, in said city, and for straightening and deepening the channel of said creek, between said Onondaga street and the bridge across said creek north of West Genesee street and near the pump house, and for the removing encroachments on and obstructions in said channel,' as amended by chapter seven hundred and seventy of the laws of eighteen hundred and sixty-seven, relating to Onondaga creek."

THE PALISADES.

Chapter 15, passed February 11, 1896, ceded to the United States jurisdiction over that part of the Palisades situated in this State, to be occupied as a military and national park. The act contained a provision that "the cliffs, rocks, and plateau known as the Palisades of the Hudson, and the rocks, trees, and shrubs upon them and at their base, be preserved, saved and reserved from mutilation, change and destruction, save in so far as the actual occupancy thereof by the United States may require." It was further provided that "the militia of the State of New York shall be allowed to use, occupy and manoeuvre upon the same, and that citizens of the State of New York shall have the right to pass over and go upon said lands, and to use the same as a public place; all these uses being, however, subject to such rules and regulations as may be prescribed by the United States, or by any duly constituted authority thereunder," subject to the jurisdiction and rights of the United States.

A Palisades Interstate Park Commission was created in 1900, by chapter 170, passed March 21, to be composed of ten commissioners to be appointed by the Governor and Senate, five of whom were to be residents of this State. The commission was declared to be a body politic, and was authorized to acquire and appropriate land on the west bank of the Hudson River from the New Jersey line to Piermont Creek near Piermont in Rockland county, for the purpose of establishing a State park, and thereby preserving the scenic beauty of the Palisades. The commission was vested with power of condemnation. The act appropriated $10,000.

In 1901, chapter 504, the act of 1900 was amended by providing that five of the commissioners might be residents of the State of New Jersey, and by legalizing appointments already made. The amendatory act also authorized the commission to receive by "gift, contribution or bequest, moneys, stocks, bonds, securities or other property, and to own, hold, invest or otherwise use the same for the purposes of said park."

Another amendatory act, passed in 1906, chapter 691, authorized the commission to extend the limits of the park, and for that purpose to select and locate such mountain lands along the west bank of the Hudson River in Rockland county, north of Piermont Creek aforesaid, and south of the State reservation at Stony Point. The new act also authorized the commission to "lay out, construct and maintain roads, pathways and boulevards across and over the said park, to lay out, construct and maintain roads between and connecting any separated portions of said park," and connect the same with outside public highways. The commission was also required, in laying out such park, to have regard to the action to be taken by a similar commission in New Jersey in laying out the Palisade Park in that State, the intention being to provide "in conjunction with the State of New Jersey, for the establishing of a park along the entire front of the Palisades from Fort Lee in New Jersey to the termination thereof in this State, and along the front of the mountain lands extending along the west bank of the Hudson River from the northerly limit of the Palisades to the State reservation at Stony Point and thereby preserving the scenic beauty of the Palisades and of said mountain lands."

In New Jersey an act was passed in 1895, chapter 415, providing for a commission to confer with a like commission to be appointed by New York, with a view to the acquisition of the Palisades by the United States " to be set apart as a reservation, or for the purposes of fortification." The act was substantially identical with the statute on the same subject passed in New York the same year, and referred to by Governor Morton.*

A New Jersey act passed in 1896, chapter 23, ceded to the United States jurisdiction over that part of the Palisades situated in that part of the State, following substantially the New York act on the same subject. This act of cession was repealed by the New Jersey Legislature in 1905, chapter 56.

In 1899, the New Jersey legislature adopted a joint resolution providing for the appointment by the Governor of a commission of five persons " to report upon the present condition of the Palisades, and whose duty it shall be to suggest some remedy or remedies to preserve the Palisades from defacement and depredations."

In 1900 the New Jersey Legislature passed an act, chapter 87, providing for a Palisades Interstate Park Commission, to be composed of ten commissioners, five of whom were to be residents of New Jersey. The provisions of the act were the same in general as the act on the same subject passed in New York the same year.

In 1901, chapter 112, the New Jersey act of 1900 was amended as to the territory to be included in the park, which so far as practicable was to be a continuation of the park to be established in New York, and together forming a Palisades Park from Fort Lee, New Jersey to Piermont Creek in Rockland county, New York.

**Ante*, p. 670.

1897. JANUARY 6. LEGISLATURE, ONE HUNDRED AND TWENTIETH SESSION.

FRANK S. BLACK, Governor.

ANNUAL MESSAGE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *January* 6, 1897.

TO THE LEGISLATURE OF THE STATE OF NEW YORK.— The message of the Governor is a constitutional requirement, and the facts and recommendations herein submitted are in compliance therewith.

FINANCIAL CONDITION.

The finances of the State are satisfactory in spite of the hard times. The total valuation of property is $4,368,712,903. The State tax for the fiscal year is $11,751,837.71, and the total funded debt was on September 30, $2,320,660. The revenues received during the last year from corporations, inheritance tax and the Raines Liquor Law were $8,030,228.66, the liquor law alone yielding $3,564,014.98. Notwithstanding this prosperous condition, every reasonable endeavor should be made to put the rate of taxation lower. The large expenses now practically fixed, including charities, the school system, the canals, the capitol, and aggregating nearly thirteen millions of dollars a year, render a satisfactory rate impossible, but the present depression and the uncertainties of the future demand the most exact scrutiny compatible with the magnitude and importance of our enterprises. The plan of appropriations, it seems to me, could be improved. That now followed permits money to be voted at any time during the session of

Frank L. Black

the Legislature, with no recommendation or backing except one or more members whose activity and desires may be strong enough to work it through the two Houses. This method may, and I understand does, result in appropriations for special purposes which are covered by general appropriations made later. In my judgment the wisdom of an expenditure should have some other demonstration than the zeal of a member for his own projects or locality. Appropriations for the national government are made upon estimates provided by the different departments, thus providing the sanction and, to some extent, the responsibility of those departments for the required outlay. A department should know its own needs and all matters properly within it should be cared for upon its estimate, accompanied by a report showing their necessity. This method would, in some measure, fix the responsibility and would be, if not a safeguard, at least a check.

THE PRISONS.

Few subjects are of more importance than the treatment of criminals. Imprisonment is not alone for punishment, but for the safety of society and the reformation of the criminal. The last purpose can be accomplished only by the steady employment of the convict. Idleness imprisoned would result always in degradation, and the hope of reformation would be destroyed. Even if the welfare of the criminal were out of the question, society itself can not afford the blemish that would be put upon it by enforcing a degradation deeper than that resulting from imprisonment. Work must be provided and at once. The constitutional provision respecting prison-made goods increases the difficulty of providing it.[a] There are nearly 20,000 persons in our hospitals and charitable institutions. The needs of these inmates should be met as far as practicable by the work of the criminal class, and if necessary in order to increase the opportunity for labor, the use of machinery should be dispensed with; for the saving of money is no part of the problem until the product of the criminal class falls below the reasonable wants of all the inmates of the State institutions. It is purely a question of State policy which broadens into a question of safety and morals. This subject might be relieved by a system of industrial training, which, in addition to the product made, would afford an occupation upon which the convict when released might rely.

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[a] Const. 1894, Art. 3, § 29.

The employment of short-term convicts in the making or improvement of roads may not be impracticable, and the consideration of a plan having that end in view may now well occupy your attention. The suggestions made in the report of the State prisons commission have been carefully prepared, and I commend those suggestions. The subject is urgent and its consideration should not be postponed. Its difficulty will be constantly increased by delay, for without employment the retrogression of our criminals will be marked and inevitable.

BANKING.

The past year has been marked by many disastrous business failures, and yet out of 215 banks of deposit and discount, only two have failed and four have gone into voluntary liquidation. This record, made in a year of unprecedented stress, when the resources of the banks themselves have fallen off over thirty millions of dollars, demonstrates their stability. Our savings banks are and have long been a source of pride and encouragement. They are the depositaries of the savings of the thrifty and industrious. Their history marks with greater accuracy than any other sign the tendency of affairs among the comparatively poor. Their gain for years has been wonderful and steady, but the increase in deposits for the past year of over forty-six millions of dollars, raising the total to the marvelous sum of seven hundred and fifteen millions, shows that the pluck and energy of the working class are too strong to be overcome by an adverse current. The administration of these banks must be careful and wise and their investments safe.

The building and loan associations, of which more than four hundred are now in existence, with a capital of fifty millions of dollars, may be productive of substantial gain. They are entitled to just and considerate legislation, but nothing should be omitted to make their management economical and sound.[1]

INSURANCE.

The report of the Superintendent of Insurance indicates that all companies doing business in this State, with one or two exceptions, are sound. If any legislation could lessen the number of weak companies it should be passed, for a company that is not likely to fulfill its contracts should not be allowed to make them.

LABOR.

Every year the so-called labor question grows more important, and the need of its proper solution more imperative. The Board of Mediation and Arbitration, the Factory Inspector, and the Bureau of Labor Statistics are of considerable value. Their work is in the right direction but they are still far short of the requirements which the growing and enormous interests of the laboring people in this country have created. There is no natural antagonism between labor and capital. They are the same. Capital is nothing but labor turned into money. A man who quarrels with the accumulations of his neighbor, discourages the thrift and economy of which he himself ought to be an example. He makes war upon the very condition which he hopes some time to attain. Those who create and foster discontent in the mind of the laborer are not his friends. The largest opportunities possible to the laboring man should be provided. The largest wages consistent with the rights of the employer should be paid, and different persons performing the same work, even though some of them be women, should receive the same compensation. These results are more likely to occur through reason and mutual acquaintance than through rebellion. Tolerance is the first requisite of amicable relations, and this will arise when the employer and the laborer understand each other. Some plan should be devised which would afford to each, such information of the other as will form a basis for the friendly adjustment of differences between them. No such plan now exists here, and the result is the appalling loss of wages and property which is so often seen when the rights of the employer and laborer clash. The plan known as the University Extension has been tried in England, and is said by many to have produced satisfactory results. It is the investigation by careful, intelligent and conscientious men into the affairs of the laboring people, and their relations to their employers. Its tendency and purpose is to give and to get information, and by seeing both sides, prevent the conflict which a view of only one might produce. The work of the Commission of Mediation and Arbitration does not meet the need described. It is designed rather to settle disputes than to prevent them, and while it may be effective in producing such settlement, the damage has already been done.

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[1] Chapter 386, approved May 7, amending the banking law of 1892, enlarged the scope of investments of savings banks.

Chapter 441, approved May 17, amending the banking law of 1892, section 52, required actions to enforce the liability of stockholders of a dissolved banking corporation to be brought by the receiver thereof. This act was sustained in Persons v. Gardner (1899) 42 App. Div. 490.

Whether or not the scheme of the University Extension is feasible, it at least affords a suggestion along lines which must at some time be pursued. I commend this subject to the Legislature for that careful consideration which the great need of all our people in this direction demands for it.[2]

THE NATIONAL GUARD.

The National Guard of the State, including the Naval Militia, consists of about fourteen thousand men. The Naval Militia has come to be an important arm of the service, but the equipment for practical training is inadequate. I suggest that you consider the subject of building a State cruiser upon which the Naval Militia might receive such actual training as is provided the guard in the camp at Peekskill. The discipline and efficiency of the National Guard are high, and actuated by a desire to maintain this condition, I suggest to the Legislature the wisdom of putting this body upon a footing where its chief executive officer is not likely to be changed at every political election. This officer ought not to be subject to political control, and the frequent changes alluded to must have a disheartening effect upon the members of the National Guard and impair its high standard of service. This suggestion, if agreeable to the Constitution,[b] might well extend to the whole of the Governor's staff, for it is certain that the National Guard would be served quite as well by officers with a more permanent tenure, and it is equally certain that the lustre shed upon the Governor by his staff might be dispensed with without loss of his dignity or danger to the State.

RAILROADS.

The railroad companies of the State have, with every other industry, felt the blight of the last year. Their condition, however, is still fairly prosperous. But little legislation is necessary upon this subject, but the frequency of accidents at railroad crossings has rendered necessary some means to prevent them. The method of reaching this result is not clear. The serious menace that surrounds all travellers where highways and railroads cross upon the same plane, would justify an inquiry by the Legislature through a commission or otherwise, as to the proper disposition of this question.[3]

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[2] A general law covering many aspects of the subject of labor was passed at this session, chapter 415.

For decisions construing various provisions of the labor law, see Ryan v. New York (1904) 177 N. Y. 271; Lochner v. New York (1905) 198 U. S. 45, reversing 177 N. Y. 145; People v. Beattie (1904) 96 App. Div. 383; People ex rel. Treat v. Coler (1901) 166 N. Y. 144; People v. Williams (1906) 51 Misc. 383.

[b] See Const. 1894, art 11.

AGRICULTURE.

No class does more work for small pay than farmers. No class renders greater service to the community at large or more completely meets the requirements of substantial citizenship. Their interests and occupation underlie the prosperity of the whole people. Any just legislation should be favored which would lighten the unusually hard condition under which they have suffered for the past few years. The establishment of a commission of agriculture was in the interest of the farmer and its work has been well done, but I understand that inadequate appropriations have prevented that accomplishment along certain lines which might be reasonably assisted. The proper application of the oleomargarine law and punishment for its violation may be cited as one particular in which lack of money has prevented the best results. The hard times now upon us should cause a careful scrutiny of every expense, but times can not be hard enough to justify withholding appropriations which are necessary to maintain the law and to protect the rights of every class.[4]

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[3] Chapter 754, approved May 22, amending the railroad law, added provisions intended to prohibit grade crossings so far as practicable, prescribed the duties of the railroad commission in relation thereto, and regulated the procedure in establishing and changing railroad crossings, including the proportion of the expense to be borne by railroad companies, and by municipal corporations. This act was sustained in Re Boston & A. R. Co. (1901) 64 App. Div. 257, affirmed in 170 N. Y. 619.

PUBLIC HIGHWAYS.

The means of obtaining good roads has been discussed for several years, and is worthy of the most careful attention. The roads of this State are not what they ought to be. Their rough and neglected condition in many instances has been the cause of severe but just condemnation. Many States with a comparatively small percentage of the wealth and population of New York, far surpass us in the construction and maintenance of roads. The need for improvement is apparent, and the initial steps can not be taken too soon to place our highways in a condition suitable to our wealth and population, and to remove a long continued and merited reproach.[5]

THE CAPITOL.

This subject may well be approached with reluctance. It is about 30 years since the building was started, and over twenty-two millions of dollars have been appropriated and spent or sunk. It has dragged itself through nearly a third of a century, always clamoring for money, until the people have nearly despaired of its completion and have come to regard it as an affliction from which time affords but little hope of relief. If an individual or a corporation had managed an undertaking as this has been managed, they would have been discredited years ago. We have now reached a point where the parts first constructed are in need of repairs, while other parts of the same building are unfinished. Other structures of enormous size and expense and of unequaled magnificence have been constructed in many places, begun years after the capitol was commenced and completed long ago. This building ought to be finished at once. The work should be done by contract, and sufficient money appropriated to pay for it. The State needs the structure for its uses, but it needs still more to escape the scandal of a building of enormous cost and unparalleled extravagance undergoing at the same time the process of construction at one end and decay at the other.[6]

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[4] Chapter 315, passed April 21, appropriated $41,000 for the purpose of erecting at the Agricultural Station at Geneva, New York, a building to be used "for experiments and investigations in dairying in all its relations, in horticulture, in plant diseases and insect pests."

Further legislation intended to restrict the use of oleomargarine was included in chapter 768, amending section 26 of the agricultural law of 1893, by providing that "any dealer in any article or product, the manufacture or sale of which is prohibited by this act, who shall keep, store or display such article or product, with other merchandise or stock in his place of business, shall be deemed to have the same in his possession for sale."

Sugar beet culture was encouraged by chapter 500, approved May 18, which added to the agricultural law an article on this subject, and which provided for a bounty to be paid to producers of sugar from beets grown in this State. The act appropriated $25,000.

[5] As to good roads see 1890, *ante*, vol. 8, p. 1041.

CANALS.

The improvements to be made on the canals under the "Nine Million Dollar Act" are likely to be justified by the result. They will retain the advantages secured to us by nature and previous expenditures. The progress so far appears satisfactory, and the work should be prosecuted with the utmost energy in order that the money provided may not be consumed in the usual experience of commissions and examining boards and supernumeraries under different titles, and also that the benefits contemplated may be speedily enjoyed.

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[6] Chapter 78, passed March 22, amending the public buildings law, provided for the appointment of a capitol commissioner by the Governor and Senate. The act vested in the superintendent of public works supervision of the "construction and completion of the unfinished portions of the capitol, and all its approaches, and the care and custody of the unfinished portions, and the laying out of the capitol grounds." The capitol was to be completed by contract according to plans and specifications to be prepared by the capitol commissioner subject to the approval of the superintendent of public works.

Chapter 352, passed April 23, appropriated $1,250,000 for continuing work on the capitol.

Chapter 511, approved May 18, further amended the public buildings law by adding a section authorizing the superintendent of public works in connection with the completion of the capitol, to provide for the establishment of a lighting system therein.

THE INSANE.

This most unfortunate of the dependent classes has been transferred to the care of the State under the act of 1890. New York is the first State to establish a broad and comprehensive system which yields the greatest benefits at the least cost. The system is now complete and its operation shows that the central supervision of expenditures makes a large annual saving over the old system of local administration. It places the welfare of the State above the interest of localities. The policy of recent legislatures should be continued. The annual report of the State Commission in Lunacy is commended for its statement of those matters which can not be reviewed at length here. An important addition is the Pathological Institute, which harmonizes the scientific work of the several hospitals and increases their efficiency. The increase in the number of insane is less than in former years, due probably to the revision by the Legislature of the insanity laws. This is said not to have worked detrimentally, for every proper case has been received and treated. The transfer of New York county to the State system with a lack of accommodation for the insane and the necessity for disproportionate construction during the ensuing year, creates an unusual condition which should be provided for.

The care of these unfortunate persons should be upon the broadest and most humane lines which the most enlightened minds can devise. The institutions of this State for the care of the insane are I believe, conducted with patience and skill and some which I have visited I know to be worthy of the highest praise. Economy, desirable in every direction, should in this, be tempered with generosity.

PUBLIC SCHOOLS.

The magnitude of our school system is partially expressed in its cost during the past year, which has been over twenty-four millions of dollars. More than 27,000 teachers have been employed, and more than 1,283,000 pupils instructed. The attendance during the past year has increased, probably as an effect of the Compulsory School Law, but there are still over 368,000 children who do not attend school. The number last stated is too large for the safety of the State. Their education should, in some way, be cared for. Facilities should be provided for those who are willing to attend, and compulsory institutions established for those who are not. A reformatory is not a proper place for a child not in need of reformation, but under the present law such reformatory seems to be the only place provided. A system of truant schools might be considered for those whose attendance is compulsory, and for those whose failure to attend is due solely to absence of opportunity the Legislature should strive to provide some means of attendance.

EXCISE LAW.

The operation of the present excise law has been in many respects satisfactory. The revenue received from it from May 1st to November 20th was $11,000,083, more than twice as much as the receipts for licenses during the entire year of 1895. It has caused a large decrease in the number of saloons, and the expense of running the excise department is less than that of running the old excise boards. The law can, however, be improved, and that improvement should be among the first duties of this Legislature. Some of the amendments needed are obvious to those living where the law has been applied, and others are apparent to those who have given the subject careful study. Neither class of amendments can be recited with any profit here, but all changes should have in view the protection of those who have in good faith attempted to obey the law and the prevention of those who, by subterfuge or direct violation, have attempted to evade it.[7]

CIVIL SERVICE.

This subject has been much discussed, generally exaggerated, and has provided capital to many who would otherwise be bankrupt. The value of practical civil service is beyond question. Its importance was recognized by the last constitutional convention, and its place is now fixed in the fundamental law of the State. But the work of the Legislature is necessary to render effective the provisions of the Constitution.[c] This work should be done promptly and in good faith, not with reference to ideas so delicate as to be worthless in actual practice, but with a view solely to the elevation of the public service, and the highest discharge of the duties of every public office. Beauty is not always a test of efficiency and machinery that works disastrously is worse than that that will not work at all. Every means must be adapted to the end desired and in my judgment, civil service will work better with less starch. A scheme is not necessarily effective or high-toned because it lacks common sense, and they are not necessarily hostile who think that common sense would improve it. An examination for a public place should be suitable to the kind of service required, and sufficient margin should be given those making appointments so that the most competent help can be selected. Experience, character, tact and even muscle may be of more importance in some cases than the fraction of one per cent. in an examination in geography. The discretion of the appointing power should not be entirely subordinated to the marking system. If an examination has disclosed the fact that a certain number of men are qualified to fill a given position, the place would be more likely to be properly filled if the appointing officer could select from the whole number so qualified than if he was limited to a quarter of that number. Furthermore, it would reduce the chances of injustice to an applicant whose qualifications, on the whole, were superior to those of his competitor who had outranked him on paper. Civil service is intended to secure for the public at a reasonable cost, unquestioned integrity and approved skill, enlarged by continuous service, and not to exploit any particular idea. This intention should be carried out by the Legislature and will meet with prompt executive approval.[8]

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[7] By chapter 312, passed April 20, the liquor tax law of 1896, chapter 112, was amended in several particulars intended to make its provisions more effective.

[c] Const. 1894, art. 5, § 9.

FORESTS.

A question too long neglected is the preservation of our forests. The State, either through indifference or false economy, has been stripped of its most valuable timber lands, allowed its water supply to be seriously impaired and the most wonderful sanitarium in the world to be defaced and partially destroyed. Every element of economy and foresight is outraged by this course. Private individuals have taken advantage of the State's neglect until of the entire Adirondack region, consisting of more than three and a half million acres, the State owns eight hundred and forty-one thousand, less than a quarter, and of the proposed Adirondack park of two million eight hundred thousand acres, it owns even a smaller percentage, about six hundred and sixty-one thousand acres. Of this proposed park more than eight hundred and eighty thousand acres are held as private preserves, and more than a million and a quarter acres by lumbermen and others, so that of the proposed total area of two million eight hundred thousand acres, more than two millions are owned by private individuals. More than a million and a quarter of the two millions so owned, are now subject to fire and axe, and the devastation wrought yearly is appalling and disgraceful. More than 450,000,000 feet of wood and timber are cut, and more than one hundred thousand acres stripped, every year. This work of devastation is progressing fast. The banks of the lakes and rivers and all sections accessible from either, are ravaged at such a pace that but few years more can elapse before that region, in many respects the most wonderful and valuable in the world, will be practically destroyed. The parts acquired or claimed by individuals are the best. A traveler through any desirable portion of that country is sure to be met with the charge of trespassing, for the cases are rare in which the title of the State to a desirable tract is acknowledged. Some time this deplorable condition must be rectified. Every year the loss to the State grows larger, in all cases difficult, and in some cases impossible, of recovery. The land is steadily and rapidly increasing in value. The bogus title burrows farther out of sight the longer it is let alone. Witnesses die, and the only thing sure to increase is the encroachment of individuals upon the domain of the State. The enlargement of the canals will require more water and the demand in every direction is increasing while the supply is steadily falling off. A subject of such magnitude should not be postponed nor conducted with the halting method which is too apt to distinguish public enterprises in which large appropriations afford convenient resting places in which office holders may grow old. Not long ago the State appropriated a million dollars to preserve the beauties of Niagara Falls. That subject is without significance compared to the Adirondack forests. Every consideration of health, pleasure, economy and safety urge the speedy consideration of this subject, and such consideration should include appropriations adequate to ascertain the nature of the titles adverse to the State, and to recover where the titles are insufficient and to purchase where they are valid. Any other course would be false and unwise economy.[9]

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[8] The Governor's views were in part embodied in chapter 428, approved May 15, which modified the existing rules applicable to civil service examinations. The new act required two examinations. The merit of the candidate was to be determined by an examination to be conducted by the civil service commission, and the act limited to fifty per cent. the rating allowable to any candidate. Fitness was to be determined by examinations to be conducted by the appointing officer, and on this examination a rating of fifty per cent. was the highest allowable. A candidate's place on the eligible list was to be determined by adding together the rating determined on the examination for merit and the examination for fitness. See Governor's memorandum of May 15, approving this bill.

This act was repealed by the revised civil service law of 1899, chapter 370.

GREATER NEW YORK.

No legislation passed this session will involve greater responsibilities or be more far reaching in its effect than that relating to the communities to be embraced in the city of New York. This subject does not concern us alone, for the extent of its influence it is not safe to predict. Conditions have arisen more than once in which an entire National policy has depended upon this State. When questions of such moment become thus dependent, the position of the city of New York is commanding and may be decisive. Every move upon this subject should result from the utmost caution and study. I have entire confidence in the wisdom of the commission in whose hands the work has thus far rested, and whatever the Legislature may do to complete or supplement that work will, I trust, be done under a sense of the profoundest responsibility.[10]

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[9] The general results of the Governor's recommendations concerning forest preservation, were embodied in chapter 220, passed April 8, which provided for the acquisition of land in the Adirondack park. The act created a forest preserve board, to be appointed by the Governor and Senate from among the commissioners of fisheries, game and forest, and the commissioners of the land office. The board was authorized to acquire by purchase or otherwise, land in the Adirondack park as they might deem advisable for the interest of the State. The act contained regulations relating to procedure and administration. The act made a direct appropriation of $600,000, and authorized the comptroller to raise a further sum of $400,000 on bonds. Other acts made additional appropriations for the purchase of forest preserve lands under existing statutes. Chap. 220 was sustained in People v. Adirondack R. Co. (1899) 160 N. Y. 225.

BIENNIAL SESSIONS.

In many States the Legislature convenes once in two years, and wherever that practice prevails I understand there is no disposition to return to the yearly meeting. This is a large State and its interests are enormous and diverse, but these do not justify or even excuse the large number of confusing, expensive and unnecessary laws passed at every session. They serve no proper purpose whatever, and their tendency is to unsettle and mislead, even if they contain nothing more objectionable. The legitimate needs of this State can be provided for in a shorter time than is generally consumed, and the chief hope arising from protracted sessions and the passage of unnecessary laws is that the people may in their next Constitution conclude to correct both with biennial sessions.

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[10] The proposed consolidation of several communities into a larger city to be known as Greater New York, was consummated at this session by the enactment of a charter for the new city, chapter 378.

The Constitution of 1894, article 3, section 26, required a board of supervisors in each county except in a county coterminus with a city. The inclusion in Greater New York of the counties of New York, Kings, and Richmond, and also a part of Queens county, made this constitutional provision applicable to the county of New York. An act passed at this session, 1897, chapter 380, provided for boards of supervisors in a county wholly within the limits of a city, in which county the board was to be composed of the members of the municipal assembly, board of aldermen, common council or other legislative body, who were to be elected as such, and also as supervisors within the territorial limits of the county. Such a board of supervisors was authorized to act as a board of county canvassers, and also had power to divide the county into assembly districts, but it possessed no other power of local legislation or administration.

The Legislature at this session, (1897) adopted an amendment to article 3, section 26, obviating the necessity of continuing a board of supervisors in a county wholly within a city, and providing that in such a county the powers of a board of supervisors might be devolved upon "the municipal assembly, common council, board of aldermen or other legislative body of the city." This amendment was again adopted by the Legislature of 1899, and submitted to the people at the November election in that year. The amendment was approved, taking effect January 1, 1900.

For decisions construing various provisions of chapter 378, see Re Schultes (1898) 33 App. Div. 254; Irwin v. Metropolitan Street R. Co. (1899) 38 App. Div. 253; Kantro v. Armstrong (1899) 44 App. Div. 506; Worthington v. London Guarantee & Acci. Co. (1900) 164 N. Y. 81; Routenberg v. Schweitzer (1900) 165 N. Y. 175; People v. Levy (1898) 24 Misc. 469; Connolly v. Van Wyck (1901) 35 Misc. 746; Re Leich (1900) 31 Misc. 671; Rieser v. Charles F. Parker & Co. (1899) 27 Misc. 205; Pierson v. Ward (1899) 27 Misc. 793; Tyroler v. Gummersbach (1899) 28 Misc. 151; McConologue v. McCaffrey (1899) 29 Misc. 139; Re Kenny (1898) 23 Misc. 9, affirmed 30 App. Div. 624; Kelly v. Van Wyck (1901) 35 Misc. 210; New York Sanitary Utilization Co. v. Health Department (1901) 61 App. Div. 106; People v. Dooley (1902) 171 N. Y. 74; People ex rel. Price v. Woodbury (1902) 38 Misc. 189.

I should be glad if no act should be passed not of pronounced utility or to meet some urgent public need. This would make possible an early adjournment, for which the people are always grateful.

FRANK S. BLACK.

SPECIAL MESSAGES.

January 19. To the Assembly: Transmitting the annual reports of the Adjutant-General, the Volunteer Life Saving Corps, the Commissioners of Pilots, State Board of Pharmacy, Herkimer Monument Commission, the managers and superintendent of the New York State School for the Blind at Batavia, the Palisades Commission, and the Cooper Union.

February 15. To the Assembly: Transmitting the report of the State Board of Examiners to select fire arms for the National Guard made in 1896, in response to a resolution of the Assembly. [See Assembly Doc. No. 48.]

February 15. To the Assembly: Transmitting the annual reports of the State Board of Health, and the Cornell University Agricultural Experiment Station.

March 10. To the Assembly: Transmitting the annual report of the Commissioners of Quarantine.

March 26. To the Assembly: Transmitting the report of pardons, reprieves and commutations.

April 2. To the Senate: Transmitting the report of the State Board of Examiners to select fire arms, in response to a resolution of the Senate.

April 9. To the Legislature: Certifying to the necessity of the immediate passage of a bill, which became chapter 312, amending the liquor tax law of 1896, chapter 112.

April 15. To the Assembly:

Veto of a bill for the removal of a canal bridge at Sandy Hill.

"This bill authorizes the Superintendent of Public Works to remove the wooden bridge over the Glens Falls feeder of the Champlain canal in the village of Sandy Hill and to erect in its place 'a wrought iron or steel bridge and to make such changes, alterations and additions in the abutments as may be required for the convenient use of said bridge and its approaches.' The sum of five thousand dollars is appropriated for this purpose.

I am advised that the wooden bridge referred to in this bill is now in fair condition, that the erection of an iron bridge in its place is not a matter of immediate public necessity, and that there is no urgency which requires an expenditure for a new bridge at this time.

For these reasons I think this bill should not receive Executive approval."

The bill was not passed over the veto.

April 16. To the Legislature: Certifying to the necessity of the immediate passage of a bill to make further provision for the Grant Monument in the city of New York, which became chapter 647.

April 21. To the Legislature: Certifying to the necessity of the immediate passage of the supply bill which became chapter 790.

April 21. To the Assembly: Transmitting the annual report of the State Geologist and the Health Officer of the port of New York.

April 22. To the Assembly: Transmitting the annual report of the Sailors' Snug Harbor.

April 23. To the Legislature: Certifying to the necessity of the immediate passage of a bill to aid the financial administration of the city of New York, which became chapter 669.

April 24. To the Legislature: Certifying to the necessity of the immediate passage of the tax rate bill, which became chapter 459.

April 24. To the Legislature: Certifying to the necessity of the immediate passage of a bill for the support of the insane, which became chapter 460.

April 24. To the Legislature: Certifying to the necessity of the immediate passage of the supply bill, which became chapter 790.

April 24. To the Legislature: Certifying to the necessity of the immediate passage of the supplemental supply bill, which became chapter 791.

April 24. The Legislature adjourned without day.

THIRTY DAY BILLS.

May 15.

Memorandum filed with Senate bill, chapter 428, the civil service bill. [See note 8.]

"Many wise and fair-minded citizens are opposed to this measure, but their opposition has been expressed with thoughtfulness and candor. Their opinions have had great weight with me and I am reluctant to disagree with their conclusions.

The bill has also been savagely attacked by those who are neither wise nor fair-minded. These attacks proceed from sources in which the public long since ceased to confide. For this latter class I have no respect. It is composed mainly of the disappointed and unsuccessful, aided now and then by some decrepit figure who, having once enjoyed the rewards and betrayed the confidence of his party, is now anxious to explain and justify that betrayal. This justification when reduced to a sediment consists of the statement that all public officers are dishonest and should not be trusted. This conclusion is probably natural if based upon the character and conduct of those who reach it. The American public is long suffering and kind, but it despises those who hope by slandering others to postpone for a day their own departure into complete obscurity.

I am in favor of an honest efficient civil service and will support any law that seems likely to produce that result. The Republican party is pledged to that course, but that party not only favors an honest result but it also favors reaching it in an honest way.

The people of this country recently witnessed the wholesale removal of trusted officials in government employ and the filling of their places with favored friends of different political faith. This manoeuvre was followed by putting the places thus filled under the protection of civil service rules. This outrage was nicknamed 'Civil Service Reform,' and has been praised and justified by every hysterical assailant of this Lexow bill. This fact alone should dispose of their sincerity, for they knew it was not reform but rank party politics under a pretense meant to deceive. Whatever the Republican party believes, it has the courage to admit. It believes in an honest, practical and competent civil service, stripped of sham and subterfuge, and it has the courage to pass a law by which such service can be attained. Public duties cannot be well performed by those who possess education and nothing else. These duties are varied, important and exacting. They demand experience, tact, character and all those qualities recognized by sensible men everywhere as essential to first class service.

No man in his private business could hope to succeed if he selected his help in accordance with the present civil service rules. No man in his private business ever does so select, yet it is universally admitted that public and private business should be conducted as nearly as possible upon the same basis. Why then should we insist upon a rule in public affairs which we reject in our own?

I have been told that the reason is that the public officers cannot be trusted to select their subordinates; that corrupt appointments will be forced upon them by political influence. Men who believe this to be true are themselves weak or dishonest. But if it is true, how does the present system remedy the trouble? If a public officer having the power of appointment is forced to be dishonest, why would not a public officer having the power of examination be dishonest as well? Both are public officials; both are indebted to some political party for their places. To my mind it seems probable that a civil service examiner would yield to corrupt pressure sooner than the responsible head of a department. For in the case of the examiner, he has no responsibility whatever and runs no risk. He may certify to the qualifications of his incompetent and lowbred friends without limit, and send them to the different departments. He pays no penalty for their inefficiency or misdeeds. On the other hand the head of every department is responsible for the conduct of its affairs; he is always under bonds and the penalty for the corruption or stupidity of his subordinates must be paid by him. His own safety demands a careful scrutiny of those who serve under him.

It is clear to me that a weak, dishonest man is far more likely to produce results harmful to the public service if he is an examiner with full swing and no risk, than if he were the head of a department steadied by his bond and the responsibilities of a great bureau. Heretofore the examining board has had full power to select employees and the departments have had sole responsibility of settling for them.

I have been told too that heads of departments have no time to devote to the selection of help. If that is true, how do they spend their time? The selection and supervision of their subordinates is one of the duties for which they are chosen. They are supposed to manage, improve, discipline and advance in every way the affairs of the department under them. They do little else. If they do not supervise their departments to the extent of knowing the character and qualifications of their help, they fail in their most important duty. But the benefits of supervision are only partial unless accompanied by the right of selection. The denial of this right often obstructs the discharge of official business. Those who consult their experience instead of their prejudice know that it often happens in great departments that business is seriously hampered by the want of competent help and the inadequacy of the present system to promptly supply it, when if the officer in charge had half the right which private individuals enjoy, he could improve both the character of his help and the quality of the work performed. Every head of a department, not so cowed by the perennial reproach of the civil service Pharisee that he is afraid to tell the whole truth, will declare that he could select better help for his own office than an examining board can select for him. It will be observed that those officers who are quoted as favoring the present system, seldom say more than that they are glad to be relieved of the duty of selecting their subordinates. They should not be relieved, and a system that has as its highest testimonial the admission of a timid official that he is willing to shirk a part of his duty, should not yet be considered sacred, nor those who criticise it, profane. The weakness of the present system is its failure to determine experience, tact, character and habits, qualities without which the highest educational tests are of no value. This bill makes a proper and necessary modification. It gives to the examining board the right to examine an applicant as to his merit, and the head of a department the right to examine as to his fitness. The examination of the board shall count for one-half and the department for the other. This will mean that the educational or theoretical examination now provided for shall be supplemented by a practical examination to be given by the department which is in need of help and which alone has knowledge of the particular duties for which such help is required. Under the old system if fairly conducted, the recent graduate of the high school or college would be almost certain to be appointed. Under the system provided in this bill the practice, training, habits, tact and manners of the applicant will be ascertained. Under the proposed method the chances of the practical man for appointment and of the public service for improvement will be greatly increased. If criticism is to be made of the words 'merit' and 'fitness,' that criticism should be addressed not to the Lexow bill but to the Constitution from which latter instrument these words are taken.[d]

The tendency now is to concentrate power and responsibility in those holding public office. The drift of legislation in recent years has been to clothe mayors of cities and other important officials with enlarged powers. This tendency has generally numbered among its advocates such persons as now oppose this bill.

How can it be consistently urged that the power of those officers under no pecuniary liability whatever for the acts of their subordinates should be enlarged, while the heads of departments responsible in every sense and in every way for subordinates should be absolutely stripped of the power of selection?

The present system is neither just nor practical. I believe the Lexow bill improves it in both respects. If it does not, or if something better can be devised, I am willing to co-operate with those who will in good faith make the attempt to improve it."

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[d] Const. 1894, art. 5, § 9.

May 19.

Veto of Senate bill to increase the number of state railroad commissioners.[11]

"I have never been able to consent to this bill. Without the Governor's signature it cannot become a law, but I prefer to call attention to it directly rather than let it appear to have died from oversight. It came to my notice early in the winter. I was opposed to it then and my opinion has never changed. It would have been better if the Legislature had not passed it, for that party makes a mistake which attempts to create an expense for which there is no excuse. The railroad commission in this State is already large enough. That commission now has three members, and its duties could be discharged by less. The expense is paid by the railroads, but this single fact affords no reason for increasing the amount. This bill emphasizes and yields to the disposition, too little checked in late years, to create new offices for the sole purpose of filling them. The State tax, while not burdensome, is too high. It could be substantially reduced without detriment to the public service. Some of the State commissions might well be abolished. The mania for new offices and new commissions is running wild. If legislation were enacted abolishing some of the commissions already existing, I should be more favorable to it than I am to this bill.

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[11] An act was passed in 1905, chapter 728, increasing the number of railroad commissioners from three to five. Governor Hughes in his annual message of 1907, recommended the abolition of the railroad commission and the State Gas Commission and the consolidation of the two commissions. This suggestion was adopted, and included in chapter 429, Laws 1907, which created two public service commissions, one for Greater New York, and one for the remainder of the State. Each commission was to be composed of five members, to be appointed by the Governor and Senate. The act abolished the Railroad Commission, the Gas and Electricity Commission, the Rapid Transit Commission of New York and the office of gas inspector, and transferred their jurisdiction, powers and duties to the new commissions.

The membership of a commission should not be increased unless one of two conditions exists: first, that the commission is overworked, or second, that it is entrusted with the expenditure, with slight or no compensation, of large sums of money. In the last case the increase would extend the supervision and diminish the chances of extravagance. Neither of those conditions exists here. A large number of worthy persons approve of this measure, but their desire cannot properly prevail when it involves the extension of a practice already carried too far."

May 21.

Veto of an Assembly bill amending the tax law in relation to graduated transfer taxes.

"Under the law now existing in this State, a tax of five per cent. is imposed upon the transfer of all property, real or personal, above five hundred dollars in amount, when such property passes by the death of the owner or is conveyed by him in contemplation of death. To this general provision there is an exception which includes cases where the persons taking are parents, children and a few others specifically named. In cases embraced in the exception, the tax is reduced to one per cent. and applies only to personal property above ten thousand dollars in value. This proposed bill increases the five per cent. tax upon personal property, after it reaches five hundred thousand dollars in value, at the rate of one per cent. for every two hundred and fifty thousand dollars or major fraction thereof, until the increased rate shall reach fifteen per cent. It also increases the one per cent. tax upon personal property until that tax reaches ten per cent. The increase begins when the estate is worth one million dollars and continues at the rate of one-half of one per cent. every quarter of a million up to two millions and a half and at the rate of one per cent. for every quarter of a million thereafter, up to the ten per cent. limit.

It is apparent that this bill makes a radical change in the law. Estates which under the present statute would pay a tax of five per cent. might under the proposed bill pay a tax of fifteen per cent. Estates which would now pay one per cent. might under the Dudley bill pay ten per cent. For a change so sweeping, even if its effects fell upon all alike, there should be substantial reasons. Conditions have existed and may again exist when burdens almost overwhelming in the form of taxation were necessary and were borne without complaint. But those were war times and the conditions then and now bear no resemblance. The State is not in need of money. Its tax rate is comparatively low and is likely to be less before it is greater. The people will pay next year to the State only $2.67 upon every thousand dollars of property. A farm assessed at $2,000 will pay to the State in taxes $5.34. This bill affects only the State tax, but the State tax is not oppressive; it is the county and city taxes that bear so heavily, and some means should be adopted to make this fact appear. The Legislature is invariably held responsible in the public mind for the tax rate, and yet only once in ten years has the State tax reached three dollars and a half on a thousand. If extravagance in local affairs were corrected the tax burden would be greatly reduced, and I believe that the legislature should require that tax bills and tax warrants should be itemized so as to show the State, city and county taxes separately in order to put the responsibility where it belongs and suggest a remedy for over taxation. This bill therefore cannot be defended on the ground of the State's urgent need for increased revenue.

It has been claimed in support of the bill that personal property to a very large extent now evades taxation. This may be true, but to my mind this bill is not the proper remedy. Personal property is now subject to taxation under the laws of this State. If that law were properly enforced there would be but little evasion. The fault is with the officers of the law and not with the law itself. It is not denied that personal property in some cases pays its share, and yet this law, in order to reach those who have evaded, would punish those who have already paid. This State ought not to confess that it is powerless to enforce its laws except by grouping the innocent and guilty together and punishing the whole. There is nothing in the present time or condition to demand that confession.

But there are other considerations which to me are controlling. The operation of the proposed law might impose the most serious hardships. It is not unusual that the death of those living to an advanced age is soon followed by the death of a successor in the direct line of descent. This law would deduct ten per cent. upon large estates for each death, so that in case of two deaths, one-fifth of the entire property would be appropriated to the State, and this perhaps upon property that had already paid its full tax. In cases where the maximum tax is fifteen per cent., the amount taken by the State would be still greater. Such cases are not improbable or remote, but if they were both, the State should not create such a contingency without the amplest justification.

But the strongest argument against this bill is that the rate proposed is not uniform or fair. There is no reason why one man's dollar should pay more than another man's. There is no reason why the last million dollars of a man's property should pay more than the first million. The discrimination between the two is a penalty, not a tax. Under this bill an inheritance of a million would pay a tax of ten thousand dollars, and an inheritance of four millions under similar circumstances would pay four hundred thousand dollars. The inheritance would be only four times as large in one case as in the other, but the tax would be forty times as much. If this is constitutional, it ought not to be. Every dollar ought under the same conditions to pay the same tax. Any other theory of taxation is not only unjust, but dangerous. If such a tax as this could be imposed, any other might be. In this country equality is demanded in all things, and taxation must certainly be included. If this rule were not adhered to, one set of men might without restraint impose a tax for another set to pay. Unlimited power of discrimination cannot safely be trusted to any one. A step like this would cost dearly in the long run. The experience of last summer and fall had a significance which should keep us from following dangerous trails. The country made good its escape then, but the margin of safety was not enough to encourage the doctrine that laws may be passed imposing burdens from which those who pass the laws may exempt themselves. In this country the right of suffrage is carried too far. Dangerous elements from abroad are yearly vaccinated into our population. Restlessness, apparent or just under the surface, is far too prevalent. Legislatures, depending upon popular vote, are changing every year and are seldom too conservative. If we are wise we shall adhere to the rule that a man who passes a law must abide by it himself.

The claim that the rich are growing richer and the poor poorer is not true, and would have no bearing here if it were. Poverty is not increasing, but the accumulations of the industrious are steadily on the gain. We have had hard times, to be sure, but this stringency comes not alone from a decreased income but from a too liberal way of living as well. In times of prosperity expenditures are made and habits indulged which can be sustained in prosperous times only, but when the income shrinks these habits become headstrong. Our burden then seems double, because a reduced income is struggling with the tastes and habits left over from prosperous times.

Neither is it true that the rich receive greater protection from the government according to their property than the poor. The reverse is probably true. This is illustrated in the case of fire and police protection and school facilities.

Those possessed of large means can through the employment of servants protect themselves against fire and the inroad of criminals. They can and to a very large extent do educate their children outside the public schools. On the other hand, people of moderate means depend very largely upon the government for the advantages named. These latter considerations have no proper weight upon problems like those involved in this bill, and they are alluded to here only because the tendency is growing to thrust them into the discussion of every public question.

It has been urged before me in opposition to this bill that wealthy men may leave the State in case it becomes a law. This is a danger which I should not have the slightest hesitation in encountering provided the bill were just. Taxation should be fairly imposed even though the rich might prefer to leave the State rather than bear their share, but we should be certain that a proposed act is equitable before we face the risk of driving millions of property now in the State into adjoining commonwealths. We already receive substantial benefits from the estates of the rich, both living and dead. Those of the living find investments in large business enterprises which afford employment to their fellow-citizens. They encourage public improvements, and develop that spirit of activity and progress which improves and enlarges every community.

Furthermore, those splendid charities which are so conspicuous and frequent in this country are chiefly the endowments of the rich and are solely for the benefit of the poor, and under the existing law these estates upon the death of their owners yield large sums of money to the State, having yielded during the year ending September 30, 1896, more than $1,750,000.

The greatness, wealth and power of this State depend in no small degree upon the reasonable certainty, from the character of its people, that its laws will be just and its government honestly administered. There is no State which has hitherto attracted so many of the rich and progressive of other States, as the State of New York. Millions of money are brought here every year from every state in the union to remain permanently, and this increase of money and of most desirable citizens should not be retarded by the adoption of an unwise and unjust policy. I believe that every dollar should pay its equal share of the burdens of government and if the laws now existing do not reach that end, they should be amended and then enforced. The proposed bill fails in my judgment to correct the evil aimed at, but creates another. I am therefore constrained to withhold my approval."

May 24.

Veto of items in the supply bill, chapter 790.

" First. 'For deficiency in appropriation under chapter 949 of the laws of 1896, for the secretary of state, to be expended by him in purchasing, at such prices as he may deem reasonable, not exceeding eighteen dollars per set, sufficient sets of the ninth edition of the revised statutes of the State of New York, prepared by Charles A. Collin, as will enable the secretary of state to complete distribution of said statutes to the officers named in said statutes, namely: One set thereof to the governor, one to the lieutenant-governor, one to each senator, member of assembly, judge of the court of appeals, justice of the supreme court, and county court, and to each other officer, board or department, except town clerks, now entitled by law to receive printed copies of the session laws, the sum of five thousand dollars, or so much as may be necessary, to be paid upon the audit of the comptroller.'

The sum of five thousand dollars was appropriated for this purpose last year and I am informed that the secretary of state used the appropriation for the distribution of sets of these statutes to the principal state officers and courts named in the statute making the appropriation. It would seem that this edition has already been distributed to as many officers as the State can fairly be called upon to furnish copies of the statutes. Owing to the revision of the statutes now going on, the edition as authorized by the law of last year had to be supplemented by an additional volume and the revisions and general laws enacted at the late session of the legislature will probably require another volume. Whenever the revision of the statutes is substantially complete, it may be well to distribute copies to most of the public officers of the state, but it does not seem to me advisable to continue the distribution of this edition at this time.

Second. 'For salaries and expenses of Fish and Game protectors and foresters, four thousand three hundred and fifty dollars.

For the commissioners of Fisheries, Game and Forests and for services of fire wardens, the sum of four thousand dollars, or so much thereof as may be necessary.

For office expenses and clerical force two thousand two hundred and fifty dollars.'

I think that sufficient appropriations have already been made for these purposes by the general appropriation bill already approved.

Third. 'For the superintendent of public works, for protecting the public highways in the town of Olive, Ulster county, from the overflowing waters of Bush Creek, the sum of two thousand dollars.'

No reason has been presented why the State should be called upon to make this appropriation, not in connection with state lands or state waters, but to assist a town for a local object. The towns are charged by law with the maintenance of their highways, and only in extraordinary cases should expenditures be made by the state to assist in the maintenance of highways under purely local jurisdiction.

Fourth. 'For the superintendent of public buildings, for rebuilding walls, for repairing roofs and gutters and reconstructing portions of the boiler-house, for resetting and repairing boilers, for new coils and repairs to heating apparatus, for extra fuel, for additional lights, lighting and electric wiring and for other necessary repairs, supplies and equipments, and for repairing streets and walks about the public buildings, the sum of thirty thousand dollars.'

A large appropriation has been already made for the purpose of completing the capitol, and the sum above appropriated is I think too large to be made at this time. The repairs specified in the item, even if deemed desirable, may, I think, reasonably be postponed another year.

Fifth. 'For the second judicial district law library at Newburgh for the purchase of law books and reports, the necessary rebinding of books belonging to said library, and the expense of keeping the books of said library insured against loss or damage by fire, the sum of two thousand dollars to be paid on bills therefor certified by the majority of the trustees having charge of said library.'

This library has already received large appropriations from the State. The libraries of the appellate divisions and court of appeals should be maintained by the state and liberal appropriations have already been made for this purpose. There is a general law under which appropriations amounting to six hundred dollars each are made to various law libraries and the appropriation bill already approved contains an item for such libraries. They must necessarily have a limited use, and while convenient for judges and lawyers living in the immediate vicinity, I think that large appropriations for their maintenance should only be made in exceptional cases.

Sixth. 'For the supreme court library in the sixth judicial district at Elmira, the sum of three thousand dollars is hereby appropriated for the purchase of law books and the expense of keeping the books of said library, said bills to be paid when certified by a majority of the trustees having charge of said library.'

This library was established in 1895 and an appropriation of three thousand dollars was made for that purpose. In 1896 the library was added to the list of those entitled to receive six hundred dollars annually and an appropriation of that amount has already been made. There are several libraries in the sixth district entitled to this annual appropriation, and I do not think this library at Elmira should receive an additional amount at this time.

Seventh. 'For the purchase of books to replenish and maintain the law libraries of the supreme court of the first department, two thousand dollars, one half of said sum to be expended for the library of the appellate division, and the other half for the library of the trial branch of said court located in the county court house of the county of New York.'

By chapter 81 of the laws of this year, the sum of five thousand dollars was appropriated for the law libraries in the first department to be distributed as directed by the justices of the appellate division in that department. It is to be presumed that the appropriation made by that act, which was approved March 22, was sufficient and no reason is given why an additional sum is now required.

Eighth. 'For the board of managers of the House of Refuge for the Reformation of Juvenile Delinquents, at Randall's Island, New York City, for: Electric lighting plant, dynamo and equipments, providing light for all the buildings, including the yards and grounds adjoining, eighteen thousand dollars; school furniture to complete the refurnishing of the class rooms begun in the year eighteen hundred and ninety-five, one thousand seven hundred dollars, laundry and its equipment including an engine, a drying room, hot and cold water supply pipes and needful connections for the first and second divisions three thousand seven hundred dollars; brick laying, mason work and building instruction shop and fittings and equipment, one thousand five hundred dollars; plumbing work in water closets in the first and second division yards, one thousand dollars; new wash troughs, water and steam pipes and equipment in lavatories, in the first and second divisions, two thousand five hundred dollars; steam pipes and radiators throughout the building, two thousand five hundred dollars; two new printing presses in printing shop and type, five hundred dollars; fire escapes from the chapel in main building to the ground, including necessary alterations, five hundred dollars; additional fire hydrants and water mains for the extinguishment of fire, including labor of putting the same in place, one thousand dollars; making a total of thirty-two thousand nine hundred dollars. No part of the appropriation for said institution shall be available until the title shall be transferred to the state, under the direction of the attorney general.'

While this appropriation may be proper and desirable, it is made practically unavailable by the last sentence which provides in substance that the money cannot be used until the title to the institution shall be transferred to the state. I am informed that it is at this time legally impossible to make this transfer. This condition is unfortunate as it renders the proposed appropriation substantially useless.

Ninth. 'The sum of five thousand six hundred and seventy dollars and ninety-two cents, being the unexpended balance of the appropriation made by sections one and two of chapter five hundred and ninety-two of the laws of eighteen hundred and ninety-five, for the Northern New York Institution for Deaf Mutes, for motive power, to operate printing press, for lathe for carpenter shop, for payment for land purchased, for ice house and cooler, for cattle barn, mowing machine, horse rake and tools for farm, tailor shop, kindergarten building and for fence about the grounds and for grading, is hereby reappropriated, to be expended for the purposes above mentioned, or such portions thereof as may be necessary.'

This institution is not the property of the State and I do not think any further appropriation should be made for it, until it has been transferred to the State.

Tenth. 'For the New York State Woman's Relief Corps Home, the sum of ten thousand and fifty-five dollars for construction, equipment and repairs; to be apportioned three thousand five hundred dollars for barn and other necessary out buildings, thirteen hundred and fifty-five dollars for plumbing and five thousand two hundred dollars for general repairs, grading grounds and supplemental construction and equipment.'

I think that a sufficient appropriation for this institution for this year has already been made.

Eleventh. 'For the faculty of the medical department of the university of Buffalo, for the equipment and maintenance of a laboratory to be devoted to an investigation into the causes, nature, mortality, rate and treatment of cancer; and the salaries of officials of the same, ten thousand dollars; same to be paid upon vouchers officially signed by the director of said laboratory, or, in his absence, by the secretary and treasurer of the faculty.'[12]

I cannot approve a proposed policy which requires the State to engage in the investigation of the causes of various diseases with which the human family is afflicted. I think that the interest of the people themselves and the skill, intelligence and enterprise of physicians may be depended upon to make such investigation.

Twelfth. 'For the New York State Dairymen's Association, to pay the expenses for their annual meeting and print their report of the same, twelve hundred dollars, or so much thereof as may be necessary.'

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[12] In 1899, by chapter 569, an appropriation of $15,000 was made to the University of Buffalo, to be expended under the supervision of the faculty of its medical department for an "investigation into the causes, nature, mortality rate and treatment of cancer." Another appropriation of $15,000 for the same purpose was made in 1900, chapter 419, and the medical faculty of the university was required to report to the next Legislature its expenditures under the two appropriations, and also the results achieved.

This is a voluntary private enterprise and I see no reason why the State should appropriate money to pay its expenses.

Thirteenth. ' For the purchase of books to fill out the incomplete sets in the Senate Library, and for binding and necessary repairs to the books in the Senate library, the sum of one thousand dollars, the same to be paid by the Comptroller on audit of the clerk of the Senate.'

No special reason has been presented for this expenditure at this time, and I think it is unnecessary.

Fourteenth. ' For the clerk of the Assembly, for engrossing the resolutions ordered by the Assembly, five hundred dollars, or so much thereof as may be necessary, to be paid upon the certificate of the clerk of the Assembly.'

The Assembly has a large force of clerks. It would seem that the resolutions could be engrossed by the regular clerks within the usual appropriations, without extra expense to the State.

Fifteenth. ' For M. J. Dady, the sum of four thousand five hundred dollars, to purchase the two story brick building and land situated at and adjoining the Kings county farm for the use of Long Island state hospital, which amount was appropriated by chapter 950 of the laws of 1896, and is hereby appropriated.'

I am informed that this property is not now desired for state purposes.

Sixteenth. ' The sum of fifteen thousand dollars is hereby appropriated for the use of the State Board of Health in carrying out the provisions of chapter 674 of the laws of 1894, relating to the examination of cattle for tuberculosis. No part of this appropriation shall be available for any other purpose than for paying claims for damages for cattle killed pursuant to law.'

If the appropriation for this purpose was ever justifiable which may be doubted, I think it is now generally regarded as undesirable.

Seventeenth. ' For the making of a careful survey and investigation of the oil and gas regions of the State of New York, and a report upon the same, which shall be communicated to the legislature as a part of the annual report of the State Geologist, the sum of twenty-five hundred dollars, to be expended upon the certificate of the State Geologist, and the audit of the Comptroller.'

I think that the investigations of this character should be left to private enterprise. The commercial spirit of our people may I think be relied upon to make all the investigations necessary to develop oil and gas territory."

May 24.

Veto of items in the supplemental supply bill, chapter 791.

" First. ' For the Adjutant General, for deficiency in appropriation for the current fiscal year for the bureau of military record, five hundred dollars.'

This item is also in the regular supply bill and is therefore disapproved here.

Second. ' For the Secretary of State, for purchasing one thousand copies, bound in full sheep, of the index to the session laws, from 1886 to 1897, inclusive, prepared by Henry L. Woodward, the sum of three thousand dollars; such copies to be delivered to the Secretary of State before January first, 1898, and distributed one each to the persons, boards and commissions, except town and village clerks, entitled to receive copies of the session laws, pursuant to section 46 of the legislative law.'

In 1896 the legislature passed a resolution directing the clerk of the Assembly to cause to be prepared a general index of the laws from 1886 to 1896, and print one thousand copies. I am informed that this work has been done and that the index is now in the hands of the public printer. The above item is for the publication of an index prepared by private enterprise, and while the distribution of the index prepared by the clerk of the Assembly will not be distributed to all of the officers named in this item, additional copies may be hereafter procured, and a further distribution made. An appropriation for the work done by the clerk of the Assembly is contained in the regular supply bill and is approved. I do not think that another appropriation should be made now for the purchase of a similar book.

Third. 'For the Comptroller, for expenses in making appraisal and inventory of property owned by the State, ten thousand dollars, or so much thereof as may be necessary.'

The annual reports of the managers of the various institutions contain ample, if not complete inventories of the property of the State under their charge. There is, however, a large amount of property of the State which is not and could not be included in these reports, and I think it is very desirable to make at an early day a complete inventory of all of the property, real and personal, owned by the State, but I think the work can properly be postponed for a short time, and this item is therefore disapproved.

Fourth. 'For John B. Stanchfield, for expenses and disbursements incurred by him, and for services in the defense of Eugene F. Vacheron, Member of Assembly in and for the third district of Queens county for the year eighteen hundred and ninety-six, the sum of three thousand dollars.'

I think that a Member of Assembly charged with an offense committed even in his official capacity, unless under very peculiar and extraordinary circumstances should employ and pay his own counsel. There is nothing in this case which I think justifies the payment by the State of the counsel fees of Mr. Vacheron.

Fifth. 'For the Superintendent of State Prisons, for tools, machinery, guards, team work and other requirements necessary for the proper construction and repair, by the use of convict labor, of such highways in the vicinity of Sing Sing prison as said superintendent may deem it for the best interest of the State to so construct or repair, the sum of three thousand five hundred dollars, payable from the capital fund of Sing Sing prison.'

While there may be no objection to the use of convict labor in making and repairing highways in the vicinity of State prisons, I do not think the State should purchase the materials and bear all the expense. The localities should not be relieved from all the expense in doing this work, simply because they are near the prisons.

Sixth. 'For the Commissioners of Fisheries, Game and Forest, the sum of nineteen hundred and fifty dollars, or so much thereof as may be necessary, for the purpose of copying, engraving and printing the map of the forest preserve in the counties of Ulster, Delaware, Greene and Sullivan.'

I am not aware of any immediate necessity for the publication of the map described in this item.

Seventh. 'For the library of the Supreme Court in the city of Kingston, the sum of two hundred and eighty dollars, for the purchase of a set of Federal Cases, to be paid on bills to be audited by the majority of the trustees having charge of said library.'

I am informed that this library will receive six hundred dollars from the general law library appropriation. The books referred to in this item should be purchased, if needed, from that appropriation."

May 24. The omnibus veto included the following bills:

Senate bill No. 869, entitled "An act to provide for the purchase and distribution of the statutes of the state."

Senate bill No. 1624, entitled "An act making an appropriation for the Eastern New York Reformatory for the erection of buildings, purchase of materials and expenses of the commissioners."

Senate bill No. 1651, entitled "An act authorizing the charter of a vessel for the naval militia, and appropriating two thousand dollars therefor."

Senate bill No. 1652, entitled "An act to provide for the construction of certain buildings upon Swinburne Island for the use of the quarantine establishment of the port of New York, and making an appropriation therefor."

Assembly bill No. 164, entitled "An act providing for the erection of a state armory in the village of Medina, Orleans county, the acquisition of a site therefor, and making an appropriation for building said armory."

Assembly bill No. 997, entitled "An act making an appropriation to compensate the commissioners appointed by the governor by an order dated the eighteenth day of February, eighteen hundred and ninety-six, to inquire into the charges preferred against Edward J. H. Tamsen, as sheriff of the city and county of New York, and to compensate the stenographer to said commission for his services therein."

Assembly bill No. 2459, entitled "An act to appropriate money for the construction of additional buildings for the New York State Woman's Relief Corps Home."

Assembly bill No. 2573, entitled "An act making an appropriation for repairing and enlarging the state armory heretofore erected for the use of the forty-seventh regiment, national guard of the state of New York."

Assembly bill No. 2577, entitled "An act to provide for the establishment of a fish hatchery in the town of Schroon, county of Essex, for the propagation of food or commercial fishes."

Assembly bill No. 2685, entitled "An act to provide for the completion of the bridge over the inlet to Otisco lake, in the county of Onondaga, and making an appropriation therefor."

Assembly bill No. 2767, entitled "An act to provide for the repayment of the balance of the money paid by the chamberlain of the city of Albany to the superintendent of public works, for the construction of the new lift or hoist-bridge across the Erie canal, at Water street, in the city of Albany."

Assembly bill No. 2781, entitled "An act to provide for the completion of the twenty-third regiment armory in the city of Brooklyn."

Senate bill No. 413, entitled "An act to amend chapter nine hundred and ninety-eight of the laws of eighteen hundred and ninety-six, entitled 'An act to provide for the abatement and prevention of nuisances in and about Newtown creek, in the city of Brooklyn, and in the city of Long Island City, and to provide for the construction and maintenance of sewers for such purposes.' "

Senate bill No. 478, entitled "An act to authorize the construction, maintenance and operation of a free public draw-bridge over Newtown creek, between the cities of Brooklyn and Long Island City."

Senate bill No. 926, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' in relation to fees of certain officers."

Senate bill No. 1131, entitled "An act preventing the opening or laying out of Woodbine street, from, at or near the boundary line of the county of Kings and Queens to Myrtle avenue in the county of Queens, a distance of about four hundred feet, and changing the maps accordingly."

Senate bill No. 1273, entitled "An act in relation to the construction, maintenance and operation of railways upon Hooper street, between Kent avenue and Broadway, in the city of Brooklyn."

Senate bill No. 1435, entitled "An act relating to the improvement of Belmont avenue and Crystal street in the city of Brooklyn and to provide the means therefor."

Senate bill No. 1441, entitled "An act in relation to Hall street and Saint James' place, in the city of Brooklyn, and regulating the construction and operation of railroads upon said streets."

Senate bill No. 1532, entitled "An act to provide for the purchase or acquisition by eminent domain by the city of Brooklyn of the stock, assets, franchises and property of incorporated water companies having property in the thirtieth ward of said city."

Senate bill No. 1545, entitled "An act in relation to the construction, maintenance and operation of railways on Bedford avenue in the city of Brooklyn."

Assembly bill No. 400, entitled "An act to authorize and empower the auditor of the city of Brooklyn to audit and the comptroller of said city to pay the claim of Warren H. Doolittle for his services as assistant clerk of a justice's court in the city of Brooklyn."

Assembly bill No. 450, entitled "An act in relation to Norman avenue, Monitor street, Montrose avenue and Heyward street, in the city of Brooklyn."

Assembly bill No. 496, entitled "An act to reduce the width of Avenue M, in the thirty-second ward of the city of Brooklyn."

Assembly bill No. 718, entitled "An act to confirm the appointment of certain firemen in the city of Brooklyn."

Assembly bill No. 1033, entitled "An act closing a portion of the old road from Flatbush to Bedford known as the 'Old Clove road,' in the city of Brooklyn."

Assembly bill No. 1197, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' in relation to granting permits for booths and stands."

Assembly bill No. 1238, entitled "An act to provide for the erection of gates and walls and other improvements of certain park lands in the city of Brooklyn, and to provide the means therefor."

Assembly bill No. 1399, entitled "An act to authorize the building of a pier in the eighth ward of the city of Brooklyn, and to provide the means therefor."

Assembly bill No. 1440, entitled "An act in relation to the construction, maintenance and operation of railways on Prospect place in the city of Brooklyn."

Assembly bill No. 1442, entitled "An act in relation to the construction, maintenance and operation of railroads upon East Eighteenth street in the city of Brooklyn."

Assembly bill No. 1444, entitled "An act in relation to the construction, maintenance and operation of railways on Bedford avenue in the city of Brooklyn."

Assembly bill No. 1723, entitled "An act in relation to railroads in Twelfth street, Fourteenth street, Prospect avenue, Avenue B, Newkirk avenue, Lynden boulevard and Lennox road in the city of Brooklyn."

Assembly bill No. 1762, entitled "An act to authorize the common council of the city of Brooklyn to alter the commissioners' map of said city by extending Surf avenue to the east and to improve said avenue."

Assembly bill No. 1781, entitled "An act to authorize the improvement of Hancock street from Ralph avenue to Broadway, in the city of Brooklyn, New York, and to provide the means therefor."

Assembly bill No. 1841, entitled "An act to amend chapter one thousand of the laws of eighteen hundred and ninety-six, entitled 'An act to abolish the office of constable in the city of Brooklyn, and creating city marshals, and defining their duties and compensation.'"

Assembly bill No. 1846, entitled "An act to authorize the mayor of the city of Brooklyn, county of Kings, to appoint a board of trustees for the control of a cemetery comprising six acres, more or less, located on Church lane near East Eighty-ninth street in the thirty-second ward, city of Brooklyn, county of Kings."

Assembly bill No. 1865, entitled "An act to provide for improvements in streets and highways in cities containing over eight hundred thousand and less than fourteen hundred thousand inhabitants."

Assembly bill No. 1898, entitled "An act in relation to Vermont avenue, from Jamaica avenue to Eastern parkway, in the city of Brooklyn."

Assembly bill No. 1930, entitled "An act to amend chapter four hundred and thirty-eight of the laws of eighteen hundred and seventy-seven, entitled 'An act to create a police pension fund for disabled and retired policemen in the city of Brooklyn,' providing that the police pension fund shall be paid monthly instead of quarterly."

Assembly bill No. 1937, entitled "An act in relation to the construction, maintenance or operation of railroads in Throop avenue, Lewis avenue, Glenada place and Albany avenue in the city of Brooklyn."

Assembly bill No. 1976, entitled "An act in relation to the construction, maintenance and operation of railroads in Cumberland street, Carlton avenue, Clinton avenue, Washington avenue and Grand avenue in the city of Brooklyn."

Assembly bill No. 2023, entitled "An act in relation to the construction, maintenance and operation of railways on Cropsey avenue, between Fourteenth avenue and Twenty-fourth avenue in the city of Brooklyn."

Assembly bill No. 2150, entitled "An act in relation to the construction, maintenance and operation of railways on Enfield street in the city of Brooklyn."

Assembly bill No. 2209, entitled "An act to amend chapter one hundred and one of the laws of eighteen hundred and ninety-five, entitled 'An act in relation to improvements in and about the Wallabout market property in the city of Brooklyn, and making an appropriation therefor,' relative to the sum authorized to be expended by the commissioner of city works, and the issuing of bonds."

Assembly bill No. 2275, entitled "An act relating to the improvement of Waterbury street in the city of Brooklyn, and to provide the means therefor."

Assembly bill No. 2287, entitled "An act to close an old road in the thirty-first ward of the city of Brooklyn."

Assembly bill No. 2327, entitled "An act in relation to construction, maintenance or operation of railroads in Saint Mark's place, Warren street, Bedford avenue, New York avenue, Saint Mark's avenue and Brooklyn avenue in the city of Brooklyn."

Assembly bill No. 2372, entitled "An act concerning the settlement and collection of arrearages of unpaid taxes and assessments in the thirty-first ward of the city of Brooklyn, late the town of Gravesend, and of installments of assessments directed by law to be hereafter levied, and imposing and levying a tax assessment and lien in lieu and instead of such arrearages and installments, and to enforce the payment thereof, and to provide for deficiencies by reason of such settlement."

Assembly bill No. 2553, entitled "An act in relation to the construction, maintenance or operation of railroads in Second avenue, Fourth avenue, Sixth avenue, Seventh avenue, Eighteenth avenue, Sixtieth street and Seventy-ninth street in the city of Brooklyn."

Assembly bill No. 2581, entitled "An act in relation to the construction, maintenance and operation of railways upon Hooper street and Penn street between Kent avenue and Broadway in the city of Brooklyn."

Assembly bill No. 2683, entitled "An act to amend chapter eight hundred and fifty-seven of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to the construction and management of the public driveway and parkway in the city of Brooklyn, authorized and acquired under and in pursuance of the provisions of chapter seven hundred and fifty-eight of the laws of eighteen hundred and ninety-four, entitled "An act to provide for the selection, laying out, construction and maintenance of a public driveway and parkway, and for the acquisition of riparian rights in connection therewith in any county of this state which contains a city, the population of which city is in excess of eight hundred thousand, and the boundaries of which city are not coterminous with those of said county, and also providing for the means of payment therefor and maintenance thereof, and creating a department of parks for said county," as amended by chapter nine hundred and thirty-one of the laws of eighteen hundred and ninety-five.'"

Assembly bill No. 2742, entitled "An act to amend chapter five hundred and sixty-nine of the laws of eighteen hundred and ninety-four, entitled 'An act in relation to the Wallabout market lands in the city of Brooklyn,' as the same was amended by chapter eight hundred and fifty-nine of the laws of eighteen hundred and ninety-six, entitled 'An act to amend chapter five hundred and sixty-nine of the laws of eighteen hundred and ninety-four,' entitled 'An act in relation to the Wallabout market lands in the city of Brooklyn.'"

Assembly bill No. 2773, entitled "An act to provide for the purchase of a site for an armory in the city of Brooklyn and making an appropriation therefor, and to provide for the taking of real estate for such site by commission, in case the same cannot be purchased by agreement."

Senate bill No. 1306, entitled "An act authorizing the common council of the city of Auburn to purchase land to be used for the purposes of a public park; issue the bonds of the city in payment therefor and of the expenses connected therewith; raise the amount necessary to pay and retire said bonds and maintain and keep said park in proper condition and repair by tax after submitting the question to the taxpayers of said city, and procuring an affirmative vote thereon."

Senate bill No. 676, entitled "An act in relation to the consent of property owners to the construction of a street railway on Louisiana street in the city of Buffalo."

Senate bill No. 1480, entitled "An act to amend chapter five hundred and seventy-four of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the city of Buffalo to accept, purchase or acquire lands to furnish a more direct outlet for the waters of Cazenovia creek and Buffalo river, and improve channels through the same for the purpose of preventing and abating floods in the fifth ward of said city.'"

Senate bill No. 1623, entitled "An act to authorize the city of Buffalo to use land acquired pursuant to chapter five hundred and forty-seven of the laws of eighteen hundred and sixty-four, entitled 'An act to authorize the common council of the city of Buffalo to lay out a public ground for the purpose of maintaining and protecting a sea wall or break-water along the shore or margin of Lake Erie' for a public street or highway."

Assembly bill No. 2298, entitled "An act to provide for the payment of a certain local assessment against state property in the city of Buffalo, and making an appropriation therefor."

Assembly bill No. 2650, entitled "An act to amend the charter of the city of Buffalo, in relation to inferior courts of criminal jurisdiction."

Assembly bill No. 2196, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo' and the several acts amendatory thereof and supplementary thereto, in relation to taxes."

Assembly bill No. 2707, entitled "An act to amend chapter seven hundred and eighty-eight of the laws of the year eighteen hundred and ninety-six, entitled 'An act to authorize the city of Buffalo to issue its bonds for the purpose of raising money to construct, maintain, extend, repair and regulate water-works."

Assembly bill No. 1704, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' and the acts amendatory thereof, in relation to the municipal court."

Assembly bill No. 2644, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' as amended by chapter eight hundred and five of the laws of eighteen hundred and ninety-five."

Assembly bill No. 2326, entitled "An act to amend chapter six hundred and seventy-one of the laws of eighteen hundred and ninety-two, entitled 'An act to revise, consolidate and amend the several acts relating to the government of the city of Cohoes.'"

Assembly bill No. 1817, entitled "An act to amend section one of chapter three hundred and eighty of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for increasing the water supply of the city of Dunkirk.'"

Senate bill No. 1296, entitled "An act to amend chapter six hundred and fifteen of the laws of eighteen hundred and ninety-four, entitled 'An act to revise the charter of the city of Elmira.'"

Assembly bill No. 2540, entitled "An act to amend chapter eighty-four of the laws of eighteen hundred and eighty-six, entitled 'An act to incorporate the city of Jamestown,' as amended by chapter one hundred and thirty-four of the laws of eighteen hundred and ninety, and further amended by chapter nine hundred and eighty-one of the laws of eighteen hundred and ninety-six, in relation to the acquisition of property for water purposes."

Assembly bill No. 2582, entitled "An act to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety-five, entitled 'An act to incorporate the city of Johnstown.'"

Assembly bill No. 2131, entitled "An act to amend chapter seven hundred and forty-seven of the laws of eighteen hundred and ninety-six, entitled 'An act to revise and consolidate the several acts in relation to the city of Kingston, to revise the charter of said city, and to establish a city court therein and define its jurisdiction and powers.'"

Senate bill No. 1031, entitled "An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety-five, entitled 'An act to incorporate the city of Little Falls,' and acts amendatory thereof."

Senate bill No. 1396, entitled "An act to authorize the city of Little Falls to procure a site and erect thereon certain public buildings, and creating a commission for such purpose."

Senate bill No. 1680, entitled "An act to authorize the city of Lockport to appropriate moneys from its poor fund for the maintenance of a provident wood yard."

Assembly bill No. 2230, entitled "An act to authorize the establishment and operation of a system of lighting the city of Lockport with electric light, and to empower the common council of said city to raise the necessary funds for that purpose."

Senate bill No. 409, entitled "An act authorizing the board of supervisors of Queens county to incorporate into the county road system of said county part of Thompson avenue in Long Island City and to issue bonds for the improvement thereof, to be assessed against Long Island City."

Senate bill No. 410, entitled "An act to provide additional school accommodations in Long Island City."

Senate bill No. 411, entitled "An act to amend chapter one hundred of the laws of eighteen hundred and seventy-nine, entitled 'An act relating to and to reduce the expenses of the city government of Long Island City.'"

Senate bill No. 412, entitled "An act for the improvement of the fire department of Long Island City."

Senate bill No. 645, entitled "An act to amend chapter six hundred and forty-four of the laws of eighteen hundred and ninety-three, entitled 'An act to create a general improvement commission and provide for certain improvements in the highways, streets, avenues, boulevards and public places in Long Island City.'"

Senate bill No. 776, entitled "An act to amend chapter four hundred and sixty-one of the laws of eighteen hundred and seventy-one, entitled 'An act to revise the charter of Long Island City.'"

Assembly bill No. 1062, entitled "An act to complete the improvements on portions of Grand avenue and Main street in Long Island City, and to provide for the payment thereof."

Assembly bill No. 1665, entitled "An act authorizing the general improvement commission of Long Island City to audit the claim of Amelia L. A. Bach."

Assembly bill No. 2231, entitled "An act to amend chapter five hundred and thirty-five of the laws of eighteen hundred and eighty-eight, entitled 'An act to incorporate the city of Middletown,' relating to the extension of the boundaries thereof."

Assembly bill No. 1274, entitled "An act to establish 'a sinking fund commission' in the city of Mount Vernon, and providing for the investment of the money in the sinking fund of said city."

Assembly bill No. 1676, entitled "An act to amend chapter seven hundred and ten of the laws of eighteen hundred and ninety-five, entitled 'An act to establish the office of comptroller in the city of Mount Vernon, providing for the appointment of such officer and defining his rights and duties.'"

Assembly bill No. 1679, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon,' as amended by chapter one hundred and eighty of the laws of eighteen hundred and ninety-five, relating to the police department."

Assembly bill No. 1957, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon,' and the acts amendatory thereof, relative to general provisions."

Assembly bill No. 2548, entitled "An act to amend chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, entitled 'An act to incorporate the city of Newburgh,' and the several acts amendatory thereof."

Senate bill No. 1040, entitled "An act to amend chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, entitled 'An act to incorporate the city of Newburgh,' and the several acts amendatory thereof."

Senate bill No. 1041, entitled "An act to amend section six of chapter forty-nine of the laws of eighteen hundred and ninety-three, entitled 'An act to provide for the construction of a sewer in the city of Newburgh,' as amended by chapter four hundred and forty-one of the laws of eighteen hundred and ninety-four."

Assembly bill No. 2646, entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Niagara Falls,' and the act amendatory thereof, and to repeal certain sections thereof."

Senate bill No. 1566, entitled "An act to amend chapter four hundred and twenty-five of the laws of eighteen hundred and ninety-six, entitled 'An act to amend the charter of the city of Poughkeepsie.' "

Assembly bill No. 2434, entitled "An act to amend chapter four hundred and twenty-five of the laws of eighteen hundred and ninety-six, entitled 'An act to amend the charter of the city of Poughkeepsie,' and to repeal certain sections thereof."

Assembly bill No. 2620, entitled "An act to amend chapter four hundred and twenty-five of the laws of eighteen hundred and ninety-six, entitled 'An act to amend the charter of the city of Poughkeepsie.' "

Assembly bill No. 2253, entitled "An act to create a fund to be known as the public school teachers' retirement fund of Rochester."

Assembly bill No. 2565, entitled "An act to authorize and empower the common council of the city of Rochester to purchase a suitable site for the erection of an arsenal for the national guard and naval militia."

Assembly bill No. 2211, entitled "An act to amend chapter one hundred and ninety-eight of the laws of eighteen hundred and ninety-three, entitled 'An act to provide a system of sewerage for the city of Rome,' relative to repaying and refunding sums to certain parties."

Senate bill No. 1592, entitled "An act to amend chapter one hundred and forty-seven of the laws of eighteen hundred and ninety, entitled 'An act to authorize the common council of the city of Schenectady to lay out a public street over and upon certain lands in said city lying between the Erie canal and the blue line of said canal on the southerly side thereof, and to cause the same to be graded, paved, flagged and improved.' "

Assembly bill No. 2639, entitled "An act to amend chapter four hundred and eighty-five of the laws of eighteen hundred and eighty-three, entitled, 'An act in relation to the construction of sewers in the city of Schenectady, and to authorize the common council of said city to borrow money for that purpose,' as amended by chapter eight hundred and sixty-seven of the laws of eighteen hundred and ninety-six, relative to the issue of bonds."

Assembly bill No. 2679, entitled "An act to amend chapter one hundred and forty-seven of the laws of eighteen hundred and ninety, entitled 'An act to authorize the common council of the city of Schenectady to lay out a public street over and upon certain lands in said city lying between the Erie canal and the blue line of said canal, on the southerly side thereof, and to cause the same to be graded, paved, flagged and improved.'"

Senate bill No. 161, entitled "An act to provide for the municipal ownership, construction and maintenance of subways in the city of Syracuse, New York, and for placing wires underground."

Senate bill No. 865, entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Senate bill No. 1353, entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Assembly bill No. 1234, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city,' and the act amendatory thereof, and to amend chapter seven hundred and four of the laws of eighteen hundred and ninety-six, relating to the fire department."

Assembly bill No. 1310, entitled "An act to amend chapter five hundred and nine of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for the police pension fund for the Syracuse police force,' relative to bail bonds, fines and warrant issued by police justice."

Assembly bill No. 1938, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city,' and the act amendatory thereof, relative to officers of the city."

Assembly bill No. 2152, entitled "An act to authorize the city of Syracuse to levy a tax to provide the means to defray the cost of constructing a steel girder bridge and abutments over Onondaga creek, in West Water street, in the city of Syracuse, and the approaches to said bridge on the west."

Assembly bill No. 2208, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city,' as amended by chapter three hundred and seventy-six of the laws of eighteen hundred and ninety-one, relative to the expense and support of the fire department."

Assembly bill No. 2257, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city,' and the act amendatory thereof and supplementary thereto."

Assembly bill No. 2591, entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Senate bill No. 538, entitled "An act providing for retiring and pensioning policemen in the city of Utica."

Assembly bill No. 606, entitled "An act to exempt the real estate of the Masonic Association of Utica, New York, of the city of Utica, Oneida county, from taxation and assessments."

Assembly bill No. 2474, entitled "An act to amend chapter four hundred and sixteen of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to the city court of Yonkers.'"

Senate bill No. 694, entitled "An act for the government of cities of the second class."

Senate bill No. 1333, entitled "An act relating to the adult blind in cities."

Senate bill No. 1627, entitled "An act to regulate the use of lands forming part of the right of way of any railroad company, the road of which has been removed from the surface in, or adjacent to, streets and highways in all cities of the first class in this state."

Assembly bill No. 2616, entitled "An act requiring any person, persons, or associations of persons doing business as private bankers in any city of the first class in this state, to file bonds for the security of certain depositors."

Senate bill No. 479, entitled "An act to amend section ten hundred and forty-two of the code of civil procedure, relative to the drawing of jurors in certain counties."

Senate bill No. 771, entitled "An act to amend section six hundred and ten of the code of civil procedure, relating to injunction orders."

Senate bill No. 852, entitled "An act to amend section four hundred and ninety-seven of the code of civil procedure, relative to amendments in certain cases after decision of demurrer."

Senate bill No. 935, entitled "An act to amend the code of civil procedure, relative to actions to recover real property."

Senate bill No. 1195, entitled "An act to amend section two hundred and forty-eight of the code of civil procedure, relating to the papers and opinions to be furnished to the reporter."

Senate bill No. 1377, entitled "An act to amend section nine hundred and eighty of the code of civil procedure, relative to the postponement of trials."

Senate bill No. 1483, entitled "An act to amend the code of civil procedure, in relation to the service of jury notices."

Senate bill No. 1512, entitled "An act to amend section nineteen hundred and two of the code of civil procedure, relative to an action for causing death by negligence, et cetera."

Senate bill No. 1573, entitled "An act to amend the code of civil procedure, relative to judgment creditors' actions."

Senate bill No. 1625, entitled "An act to amend section twenty-six hundred and sixty-nine of the code of civil procedure, relative to the appointment of public administrator in the county of Kings."

Assembly bill No. 863, entitled "An act to amend subdivision five of section twenty-eight hundred and sixty-nine of the code of civil procedure, relating to the jurisdiction of justices of the peace of certain towns."

Assembly bill No. 1696, entitled "An act to amend section twenty-eight hundred and eighty-six of the code of civil procedure, relative to attorneys in justices' courts."

Assembly bill No. 1878, entitled "An act to amend the code of civil procedure, relative to actions to recover real property."

Assembly bill No. 2310, entitled "An act to amend sections thirty-two hundred and sixty-eight and thirty-two hundred and seventy-two of the code of civil procedure, relating to city court of Albany."

Assembly bill No. 2455, entitled "An act to amend title twelve, article first of the code of civil procedure by adding thereto a new section to be known as section twenty-four hundred and thirty-seven-a, relating to supplementary proceedings."

Assembly bill No. 2776, entitled "An act to amend section thirty-three hundred and fourteen of the code of civil procedure, relative to fees of jurors."

Senate bill No. 1143, entitled "An act to amend section two hundred and five of the code of criminal procedure, relating to depositions."

Senate bill No. 1192, entitled "An act to amend the code of criminal procedure, in relation to practice on appeals."

Assembly bill No. 2527, entitled "An act to amend the code of criminal procedure, relative to appeals in criminal cases, and proceedings against fugitives from justice."

Assembly bill No. 2704, entitled "An act to amend section four hundred and eighty-four of the code of criminal procedure, relative to power to remit fines and imprisonment in case of failure to pay fine."

Senate bill No. 1186, entitled "An act to amend section six hundred and sixty-three of the penal code, relative to cruelty to animals."

Assembly bill No. 1443, entitled "An act to amend the penal code, prohibiting the sale of horse flesh as an article of food."

Assembly bill No. 1850, entitled "An act to amend the penal code, relating to frauds on owners and managers of steamboats."

Assembly bill No. 2232, entitled "An act to amend the penal code, relative to servile labor."

Senate bill No. 204, entitled "An act to incorporate the Ward's Island Bridge Company for the purpose of constructing and maintaining a permanent bridge for passenger and other traffic over the waters between the twenty-third ward of New York city and Long Island City, in the state of New York, together with all necessary connections, appurtenances and approaches thereto and stations."

Senate bill No. 1007, entitled "An act to amend chapter ten hundred and thirty-eight of the laws of eighteen hundred and ninety-five, entitled 'An act to revise and amend the articles of incorporation of the Union Veteran Protective Association,' in relation to the holding of annual meetings."

Senate bill No. 1039, entitled "An act in relation to the Newburgh and Cochecton turnpike road."

Senate bill No. 1266, entitled "An act to change the corporate name of 'The Lutheran League of Rochester,' to 'The Lutheran Mission Union of Rochester, New York.'"

Senate bill No. 1456, entitled "An act to change the corporate name of the 'Central Throat Hospital Polyclinic Dispensary,' of Brooklyn."

Senate bill No. 1464, entitled "An act to exempt the University Settlement Society of New York and the Educational Alliance from taxation, assessment and water rates."

Senate bill No. 1465, entitled "An act to change the name of the C. J. Purcell company of the city of New York."

Senate bill No. 1618, entitled "An act concerning certain corporations."

Assembly bill No. 1264, entitled "An act to confer upon the Round Lake Association the right to condemn property for the purpose of supplying its grounds, residents and visitors with pure and wholesome water."

Assembly bill No. 1469, entitled "An act releasing certain real estate of the 'Union Methodist Episcopal church' in the city of New York from the taxes for the year eighteen hundred and ninety-four."

Assembly bill No. 2149, entitled "An act to change the corporate name of 'The Lutheran League of Rochester.'"

Assembly bill No. 2195, entitled "An act to incorporate the Accounting Guarantee Company."

Assembly bill No. 2258, entitled "An act to authorize the Hillside Cemetery association of Middletown to raise money for the improvement of its cemetery."

Assembly bill No. 2384, entitled "An act in relation to corporations organized for the purpose of transmitting letters and packages through tubes by pneumatic or other power, and providing for an annual franchise tax thereon."

Assembly bill No. 2508, entitled "An act in relation to the Long Island Historical society."

Assembly bill No. 2614, entitled "An act to incorporate the New York Realty Bond and Exchange company."

Assembly bill No. 2672, entitled "An act for the relief of certain manufacturing corporations incorporated under the provisions of chapter forty of the laws of eighteen hundred and forty-eight, entitled 'An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes.'"

Assembly bill No. 2752, entitled "An act to amend chapter four hundred and sixty-four of the laws of eighteen hundred and eighty-six, entitled 'An act to improve the road leading from Buffalo to the village of Williamsville, from the city line to Ellicott creek, and commonly known as the Main street road.'"

Assembly bill No. 413, entitled "An act to legalize, ratify and confirm certain acts and proceedings of the board of supervisors of Broome county."

Assembly bill No. 779, entitled "An act to incorporate the county police of Chautauqua county."

Senate bill No. 884, entitled "An act to refund to the county of Erie the unexpended balance of money raised by it for the acquiring of a site for the state armory in the village of Tonawanda, county of Erie, as provided for by chapter three hundred and sixty-one of the laws of eighteen hundred and ninety-four."

Assembly bill No. 1973, entitled "An act to amend chapter twelve of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to the county court of Kings county, and the appointment of clerks and assistants therein, and the disposition of the records of the former court of sessions in Kings county,' relative to the removal of deputy clerk; compensation fixed by judges."

Senate bill No. 1168, entitled "An act empowering the justices of the supreme court resident in Kings county to amend a certain order transferring employees of the city court of Brooklyn to the supreme court."

Assembly bill No. 2731, entitled "An act to amend chapter one hundred and fifty-one of the laws of eighteen hundred and forty-four, entitled 'An act to authorize the construction of a timber, plank or hard road from Salina, in the county of Onondaga, to Central Square, in the county of Oswego,' chapter three hundred and forty-two of the laws of eighteen hundred and sixty-seven, entitled 'An act to amend an act entitled "An act to authorize the construction of a timber, plank or hard road from Salina, in the county of Onondaga, to Central Square, in the county of

Oswego," passed April twelve, eighteen hundred and forty-four,' relating to rates of toll and statement of receipts and disbursements."

Assembly bill No. 2544, entitled "An act to repeal chapter three hundred and twenty-two of the laws of eighteen hundred and eighty-two and the acts amendatory thereof, and to provide for the assignment of lands bid in by the county of Oswego for the non-payment of taxes to the several towns in such counties and the city of Oswego."

Senate bill No. 1510, entitled "An act to amend chapter three hundred and six of the laws of eighteen hundred and ninety-five, entitled 'An act concerning the settlement, adjustment and collection of arrears of unpaid taxes and assessments in the county of Queens, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearage, and to enforce payment thereof.' "

Assembly bill No. 2445, entitled "An act to amend chapter two hundred and sixty-eight of the laws of eighteen hundred and seventy-seven, entitled 'An act in relation to the collection of taxes and the sales of land therefor in certain towns of Queens county,' relative to publication by county treasurer of the list of unpaid taxes and assessments and notice of sale and compensation to newspapers."

Assembly bill No. 2363, entitled "An act to create the office of commissioner of jurors for the county of Richmond."

Senate bill No. 1653, entitled "An act imposing a tax upon the property, real and personal, of the county of Schuyler, and requiring the board of supervisors of the county of Schuyler to levy and collect said tax, and pay the same to the state treasurer for and on account of the general funds of the state, to be applicable to the payment of the ordinary and current expenses of the state."

Assembly bill No. 2252, entitled "An act to make the expenses of prisoners charged with, or convicted of, crimes less than a felony, and committed to the jail of Washington county, town charges."

Senate bill No. 1671, entitled "An act conferring jurisdiction upon the board of claims to hear and determine the claim of James Hall against the state, and to make an award therefor."

Assembly bill No. 348, entitled "An act conferring jurisdiction upon the board of claims to rehear, audit and determine the amount of the claim of Jane E. Lynch, as administratrix of the goods, chattels and credits of Morris Lynch, deceased, against the state, and to make an award therefor."

Assembly bill No. 438, entitled "An act to amend chapter ten hundred and seventeen of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the board of claims to hear, audit and determine certain claims of the city of Rochester against the state.'"

Assembly bill No. 1044, entitled "An act conferring jurisdiction upon the board of claims to hear, audit and determine the claim of Thomas Gilgan against the state of New York."

Assembly bill No. 1065, entitled "An act to confer jurisdiction on the board of claims to hear, audit and determine the claim of Abiel B. Parks against the state for loss of title to certain lands in Sullivan county."

Assembly bill No. 1343, entitled "An act to confer authority upon the court of claims to hear, try and determine the claim of the Onondaga Pottery Company against the state."

Assembly bill No. 1703, entitled "An act to ratify and legalize the claim of J. Smith McMaster, and to confer jurisdiction upon the board of claims to hear, audit and determine the same."

Assembly bill No. 2106, entitled "An act conferring jurisdiction upon the court of claims to hear and determine the claim of the American Glucose company against the state, and to make an award therefor."

Assembly bill No. 2500, entitled "An act conferring jurisdiction upon the board of claims to hear, audit and determine the amount of the claim of Andrew W. Morhous against the state, and to make an award therefor."

Assembly bill No. 2676, entitled "An act conferring jurisdiction upon the court of claims to hear and determine the claim of Irving F. Cragin against the state, and to make an award therefor."

Senate bill No. 389, entitled "An act to amend the game law, and the acts amendatory thereof, relating to the taking of fish by drawing off waters from ponds or reservoirs."

Senate bill No. 729, entitled "An act to amend the fisheries, game and forest law, in relation to fish in Lake Ontario and other waters."

Senate bill No. 977, entitled "An act amending the game law, and the act amendatory thereof, in relation to certain fish that may be caught through the ice in lakes and waters named."

Senate bill No. 979, entitled "An act to amend the fisheries, game and forest law, in relation to grouse and other birds."

Senate bill No. 1017, entitled "An act providing for the publication and distribution of the fisheries, game and forest laws."

Senate bill No. 1090, entitled "An act to amend the fisheries, game and forest law, in regard to use of nets in Jamaica Bay and adjacent waters."

Senate bill No. 1096, entitled "An act to amend the game law, in relation to black and gray squirrels, hares and rabbits."

Senate bill No. 1448, entitled "An act to amend the game law."

Senate bill No. 1460, entitled "An act to amend the game law, relating to fishing in Fall creek, in the city of Ithaca, New York."

Senate bill No. 1495, entitled "An act to amend the fisheries, game and forest law, in relation to taking sturgeon with set lines in part of the waters of the Thousand Islands."

Senate bill No. 1634, entitled "An act to amend the fisheries, game and forest law, in relation to disseminating knowledge concerning birds and wild animals."

Assembly bill No. 886, entitled "An act to amend the game law, and the act amendatory thereof, relating to the right of protectors to make search or examination."

Assembly bill No. 2155, entitled "An act to amend the game law, relating to hounds and other dogs running at large in localities where deer inhabit."

Assembly bill No. 2324, entitled "An act to amend chapter three hundred and ninety-five of the laws of eighteen hundred and ninety-five, entitled 'An act to amend the game law and to repeal chapter three hundred and thirty-two of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the forest preserve and Adirondack park, constituting articles six and seven of chapter forty-three of the general laws,"' as amended by chapter six hundred and fifty-five of the laws of eighteen hundred and ninety-six, relating to compensation of fire wardens and assistants in Sullivan county."

Assembly bill No. 2447, entitled "An act to amend the fisheries, game and forest law, and the act amendatory thereof, to provide for the protection of elk."

Assembly bill No. 2515, entitled "An act to amend the fisheries, game and forest law, and the act amendatory thereof, in relation to the disposal of the amount recovered in actions by the people."

Assembly bill No. 2622, entitled "An act to amend the fisheries, game and forest law, relating to digging sand and other worms on the shores of Queens and Suffolk counties."

Assembly bill No. 2654, entitled "An act to amend the fisheries, game and forest law, and the act amendatory thereof, relating to the possession of venison."

Assembly bill No. 2656, entitled "An act to amend the game law, and the act amendatory thereof, relating to the close season for black bass in Crystal lake, town of Rensselaerville, Albany county."

Assembly bill No. 2701, entitled "An act to amend the fisheries, game and forest law, and the act amendatory thereof, in relation to the use of nets."

Assembly bill No. 2710, entitled "An act to amend the game law, and the act amendatory thereof, relating to close season for salmon trout and land-locked salmon."

Assembly bill No. 2729, entitled "An act to amend the fisheries, game and forest law, and the act amendatory thereof, relating to the sale of dead wild bird skins."

Assembly bill No. 2777, entitled "An act in relation to fishing for sturgeon in the waters of Lake Ontario."

Assembly bill No. 2012, entitled "An act to amend chapter three hundred and thirty-eight of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to agriculture, constituting articles one, two, three, four and five of chapter thirty-three of the general laws.' "

Senate bill No. 1369, entitled "An act to amend the banking law."

Senate bill No. 1504, entitled "An act to amend an act entitled 'the banking law,' constituting chapter thirty-seven of the general laws, in relation to directors of banks and elections thereof."

Senate bill No. 1606, entitled "An act to amend chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to banking corporations,' as amended by chapter seven hundred and five of the laws of eighteen hundred and ninety-four."

Assembly bill No. 2323, entitled "An act to amend an act entitled 'An act in relation to benevolent orders, constituting chapter forty-one of the general laws.' "

Senate bill No. 815, entitled "An act to amend the consolidated school law, in relation to the alteration of school districts."

Assembly bill No. 2444, entitled "An act to amend the consolidated school law, and the act amendatory thereof, relating to the condemnation of school houses, alteration of school districts, rights, powers and duties of commissioners, payment of unpaid school taxes and closing of schools during institute week."

Senate bill No. 980, entitled "An act to amend subdivision thirty-eight of section two hundred and twenty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to counties, constituting chapter eighteen of the general laws.' "

Assembly bill No. 1471, entitled "An act to amend section two hundred and three of article ten of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, known as the county law."

Assembly bill No. 2706, entitled "An act to amend the county law as amended by chapters one hundred and fifty and seven hundred and eighteen of the laws of eighteen hundred and ninety-five, relating to sheriffs' offices; time of keeping open."

Assembly bill No. 2766, entitled "An act to amend chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to counties, constituting chapter eighteen of the general laws,' in relation to the appointment of assistant district atorneys."

Senate bill No. 1621, entitled "An act to amend chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to the elections, constituting chapter six of the general laws.'"

Senate bill No. 1591, entitled "An act to amend the highway law, relating to the appointment and compensation of commissioners for laying out, altering and discontinuing highways."

Assembly bill No. 993, entitled "An act to amend section four of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, entitled 'An act in relation to highways, constituting chapter nineteen of the general laws,' as amended by chapter two hundred and twelve of the laws of eighteen hundred and ninety-one, in relation to the free flow of water in rivers and streams."

Assembly bill No. 2098, entitled "An act to amend the highway law, in relation to inspection of bridges by the state engineer and surveyor."

Assembly bill No. 2319, entitled "An act to amend the highway law, in relation to the annual report of overseers."

Assembly bill No. 2714, entitled "An act to amend the highway law, relative to assessment of highway labor upon railroad corporations."

Assembly bill No. 2719, entitled "An act to amend the Indian law, in relation to the Saint Regis tribe."

Senate bill No. 1020, entitled "An act to amend the insurance law, relating to the exemption of the Supreme Grange Life Association from the payment of two per centum on the amount of insurance subscribed by the members thereof before commencing business."

Senate bill No. 1528, entitled "An act to amend section fifty-seven of chapter six hundred and ninety of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to insurance corporations, constituting chapter thirty-eight of the general laws.' "

Senate bill No. 1626, entitled "An act to amend section seventy of chapter six hundred and ninety of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to insurance corporations, constituting chapter thirty-eight of the general laws.' "

Senate bill No. 1628, entitled "An act to amend the insurance law, relating to credit guarantee corporations."

Assembly bill No. 1672, entitled "An act to amend the insurance law, relating to the authority of an agent of a foreign fire insurance corporation."

Senate bill No. 545, entitled "An act to amend the legislative law in relation to the compensation of officers and employees of the legislature."

Assembly bill No. 2786, entitled "An act to amend chapter one hundred and twelve of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to traffic in liquors and for the taxation and regulation of the same, and to provide for local option, constituting chapter twenty-nine of the general laws,' relating to consents for the use of buildings for hotel purposes."

Senate bill No. 1569, entitled "An act to amend chapter five hundred and fifty-nine of the laws of eighteen hundred and ninety-five, entitled 'An act relating to membership corporations, constituting chapter forty-three of the general laws.' "

Assembly bill No. 1600, entitled "An act to amend the poor law, relative to the support of Indian poor persons."

Assembly bill No. 2746, entitled "An act to amend the poor law, relating to relief to soldiers and their families by any encampment of the Union Veteran Legion."

Senate bill No. 1250, entitled "An act to amend section one hundred and forty-five of chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to the public health, constituting chapter twenty-five of the general laws,' as amended by chapter one hundred and eleven of the laws of eighteen hundred and ninety-six."

Assembly bill No. 1979, entitled "An act to amend chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three and the act amendatory thereof, requiring persons practicing dentistry to display professional signs."

Assembly bill No. 2243, entitled "An act to amend section one hundred and forty-eight of chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three, being chapter twenty-five of the general laws."

Senate bill No. 835, entitled "An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled 'An act in relation to railroads, constituting chapter thirty-nine of the general laws,' and known as the railroad law, as amended by chapters three hundred and six and six hundred and seventy-six of the laws of eighteen hundred and ninety-two."

Assembly bill No. 2712, entitled "An act to amend the railroad law, in relation to tunnel railroads."

Assembly bill No. 1639, entitled "An act to repeal section two hundred and seventy-four of the real property law, relating to the penalty for using long forms of covenants."

Assembly bill No. 1017, entitled "An act to amend the tax law, relating to taxation of real property divided by line of tax district."

Assembly bill No. 1296, entitled "An act to amend chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to taxation, constituting chapter twenty-four of the general laws.'"

Assembly bill No. 1556, entitled "An act to amend chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to taxation, constituting chapter twenty-four of the general laws,' in relation to sales for non-payment of taxes in Saint Lawrence, Lewis and Oneida counties."

Senate bill No. 1643, entitled "An act to amend chapter five hundred and sixty-nine of the laws of eighteen hundred and ninety, entitled 'An act in relation to towns,' constituting chapter twenty of the general laws."

Senate bill No. 1572, entitled "An act to amend section eighty of the transportation corporations law, relating to the formation of water companies."

Senate bill No. 1240, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-two, known as 'the university law.'"

Assembly bill No. 2274, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-two, entitled 'An act to revise and consolidate the laws relating to the university of the state of New York.'"

Senate bill No. 1424, entitled "An act to amend chapter eight hundred and twenty-three of the laws of eighteen hundred and ninety-five, entitled 'An act to regulate barbering on Sunday.'"

Senate bill No. 600, entitled "An act to amend chapter five hundred and fifty-five of the laws of eighteen hundred and ninety-four, entitled 'An act to promote and encourage a faithful and efficient service in the prevention of contagious and infectious diseases, and to provide for a health department pension fund in the city of New York,' and in relation to pension fund."

Senate bill No. 629, entitled "An act to enable the board of fire commissioners of the city of New York to rehear and determine the charges against James P. Reilly, a fireman of the first grade, for reinstatement in said department."

Senate bill No. 824, entitled "An act authorizing the board of estimate and apportionment of the city of New York to allow and pay to Lizzie M. Fellows, widow of the late John R. Fellows, district attorney for the city and county of New York, a sum equal to the remainder of his salary from the city of New York, for the unexpired portion of his term of office."

Senate bill No. 872, entitled "An act to authorize the board of estimate and apportionment of the city of New York to audit and allow the claim of Adam A. Cross against the mayor, aldermen and commonalty of the city of New York."

Senate bill No. 1081, entitled "An act to provide for the building, operation and maintenance of a system of sewage disposal of the Bronx river, the Hutchinson river and the Westchester creek valleys, in the counties of New York and Westchester."

Senate bill No. 1083, entitled "An act to amend chapter six hundred and ninety-six of the laws of eighteen hundred and eighty-seven, entitled 'An act to provide hospitals, orphan asylums and other charitable institutions in the city of New York with water, and remitting assessments therefor,' and the acts amendatory thereof."

Senate bill No. 1282, entitled "An act to authorize the alteration of section six of the final maps and profiles of the twenty-third and twenty-fourth wards of the city of New York, by showing thereon the extension of East One Hundred and Sixty-fourth street from Trinity avenue to Stebbins avenue in the city of New York."

Senate bill No. 1293, entitled "An act to provide for the payment of compensation to Rufus G. Beardslee, for services as counsel to the board of education of the city of New York, and authorizing the board of estimate and apportionment of the city of New York, to audit and allow the amount that may be justly due."

Senate bill No. 1317, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' and the acts amendatory thereof, relating to the fire department of the city of New York."

Senate bill No. 1503, entitled "An act authorizing the board of estimate and apportionment of the city of New York to audit and allow, and also authorizing the comptroller to pay to J. Elliott Smith the amount incurred by him for legal services and disbursements."

Senate bill No. 1575, entitled "An act to amend section five hundred and four of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting the public interests in the city of New York,' as amended by section forty of chapter two hundred and seventy-five of the laws of eighteen hundred and ninety-two, in regard to superintendent of buildings."

Senate bill No. 1587, entitled "An act to authorize and to provide for the location of a park in the city of New York, and to provide for the acquisition thereof."

Senate bill No. 1590, entitled "An act to authorize the release to Julia C. Patterson of all the right, title and interest of the mayor, aldermen and commonalty of the city of New York in and to certain real estate in the town of Patterson, Putnam county, New York."

Senate bill No. 1619, entitled "An act for the relief of the Beth Israel Hospital Association from taxes and water rents."

Senate bill No. 1705, entitled "An act to provide for the construction of an elevator to and from the Brooklyn bridge."

Assembly bill No. 256, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interest in the city of New York,' as amended by chapter seven hundred and eighteen of the laws of eighteen hundred and ninety-six, in relation to the power of the common council to make ordinances."

Assembly bill No. 753, entitled "An act to create a division of notification in the department of finance in the city of New York."

Assembly bill No. 836, entitled "An act to amend chapter nine hundred and eighty-six of the laws of eighteen hundred and ninety-five, entitled 'An act to provide for the construction of a drawbridge over the Harlem river, connecting the easterly end of One Hundred and Forty-fifth street and the marginal or exterior street in the twelfth ward of the city of New York, with East One Hundred and Forty-ninth street and exterior street in the twenty-third ward of said city.'"

Assembly bill No. 1028, entitled "An act relating to Ninth avenue in the city of New York."

Assembly bill No. 1094, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter seven hundred and fifty-seven of the laws of eighteen hundred and ninety-four, relating to clerks, officers and attendants of courts."

Assembly bill No. 1235, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relative to public baths."

Assembly bill No. 1415, entitled "An act to place under an annual salary the jury servers of the office of the commissioner of jurors of the city and county of New York."

Assembly bill No. 1445, entitled "An act authorizing the audit and allowance of the claim of Henry H. Shill against the mayor, aldermen and commonalty of the city of New York."

Assembly bill No. 1534, entitled "An act to amend chapter five hundred and forty-five of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for lectures for workingmen and workingwomen,' as amended by chapter seventy-one of the laws of eighteen hundred and ninety-one, in relation to the public schools in New York city."

Assembly bill No. 1572, entitled "An act authorizing the board of fire commissioners of the city of New York to inquire into the facts relating to the claim to be placed on the pension-roll of the fire department of said city of any officer who has served as chief of battalion of the uniformed force of said department, whose term of office or service was terminated pursuant to the provisions of section one hundred and seventeen of chapter three hundred and thirty-five of the laws of eighteen hundred and seventy-three, and if upon proper investigation it shall appear to the said board that he should receive the benefit of the relief fund of said department."

Assembly bill No. 1675, entitled "An act to provide for the erection of a building for certain purposes relating to the public interests in that portion of the city of New York annexed by chapter nine hundred and thirty-four of the laws of eighteen hundred and ninety-five."

Assembly bill No. 1725, entitled "An act for the relief of Congregation Beth Israel Bikur Cholim of the city of New York."

Assembly bill No. 1759, entitled "An act to ratify the laying out of East river park in the city of New York, between Eighty-fourth and Eighty-ninth streets, Avenue B or East End avenue and the East river, and empowering the comptroller of the city of New York to refund the assessments levied and collected therefor."

Assemby bill No. 1769, entitled "An act in relation to the real estate of the corporation known as Saint Joseph's seminary of the city of New York."

Assembly bill No. 1889, entitled "An act to authorize the acceptance by the city of New York of the building constructed pursuant to chapter three hundred and seventy-one of the laws of eighteen hundred and eighty-seven, entitled 'An act to provide for the erection of a building for criminal courts and other purposes in the city of New York,' and to provide for the completion thereof."

Assembly bill No. 1980, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter six hundred and ten of the laws of eighteen hundred and ninety-six, in relation to buildings in said city."

Assembly bill No. 1991, entitled "An act to relieve the rector, church wardens and vestrymen of Saint Luke's church in the city of New York from a portion of an assessment for opening and extending Saint Nicholas terrace."

Assembly bill No. 1992, entitled "An act to relieve the rector, church wardens and vestrymen of Saint Luke's church in the city of New York from a portion of an assessment for opening Convent avenue from One Hundred and Fiftieth street to Saint Nicholas avenue."

Assembly bill No. 2112, entitled "An act relating to appointment of employees of the fire department of the cities of New York and Brooklyn to the uniformed force of the said departments."

Assembly bill No. 2291, entitled "An act for the relief of William S. Wynn and James C. Wynn."

Assembly bill No. 2421, entitled "An act to authorize the alteration of section ten of the final maps and profiles of the twenty-third and twenty-fourth wards of the city of New York."

Assembly bill No. 2428, entitled "An act authorizing and empowering the comptroller of the city of New York to cancel and refund the assessment for opening Lexington avenue between Ninety-seventh and One Hundred and Second streets in the city of New York, confirmed the first day of June, eighteen hundred and ninety-four, on property owned by the Blinn Memorial Methodist Episcopal church, the Lexington Avenue Baptist church and the Saint Cecelia Roman Catholic church and certain other property owners."

Assembly bill No. 2484, entitled "An act to legalize and confirm the action of James P. Davenport, judge of the thirteenth civil district court, New York city, in appointing two attendants, one stenographer and one interpreter, attached to said court."

Assembly bill No. 2580, entitled "An act to provide compensation to the owners of animals and cattle destroyed pursuant to chapter six hundred and seventy-four of the laws of eighteen hundred and ninety-four and repealing certain acts relating thereto in the city of New York."

Assembly bill No. 2599, entitled "An act in relation to the widening of Mott avenue in the city of New York from One Hundred and Sixty-first street south to One Hundred and Thirty-eighth street, providing for the raising of part of the expense by assessment and part out of the fund known as the 'fund for street and park openings,' in said city."

Assembly bill No. 2720, entitled "An act to exempt the real property of the society under the care and supervision of the Paulist Fathers in the city of New York, known as the 'Spalding Literary Union,' so long as the society shall be under the care and supervision of said Paulist Fathers and so long as said property is exclusively occupied by and used for the purposes of said society."

Assembly bill No. 2724, entitled "An act for the relief of the Beth Israel Hospital association from taxes and water rents."

Senate bill No. 148, entitled "An act to amend chapter nine hundred and seventy-eight of the laws of eighteen hundred and ninety-six, entitled 'An act to authorize and empower the board of trustees of incorporated villages of this state to contract with water-works companies, organized under the laws of this state, or with the owner or owners of water-works for supplying water for extinguishing fires in said villages.'"

Senate bill No. 318, entitled "An act to amend chapter six hundred and two of the laws of eighteen hundred and ninety-two, entitled 'An act to secure the registration of plumbers and the supervision of plumbing and drainage in the cities of the state of New York,' as amended by chapter sixty-six of the laws of eighteen hundred and ninety-three."

Senate bill No. 429, entitled "An act to authorize the state comptroller to hear and determine the application of Lucie W. Gilmour, for cancellation of the sale of eighteen hundred and ninety, of house and east two-thirds of section number seven, Mathew Clarkson map number seventy-five, Clarkson street, Flatbush, Kings county, for unpaid taxes."

Senate bill No. 474, entitled "An act to prevent the application of poison to fruit trees while in blossom."

Senate bill No. 817, entitled "An act creating a commissioner of jurors for each county of the state having a population of more than one hundred and twenty-five thousand and less than one hundred and ninety thousand, and regulating and prescribing his duties."

Senate bill No. 971, entitled "An act to regulate the use of bicycles, tricycles and similar vehicles and to require uniformity of ordinance affecting the same."

Senate bill No. 1015, entitled "An act relative to land devised by Michael Flood, deceased."

Senate bill No. 1102, entitled "An act to authorize the secretary of state to dispose of certain papers on file in his office."

Senate bill No. 1301, entitled "An act to prevent disturbance of religious camp meetings."

Senate bill No. 1357, entitled "An act to amend chapter three hundred and forty-eight of the laws of eighteen hundred and eighty-five, entitled 'An act to authorize the appointment of stenographers for grand juries, and to fix the compensation of such stenographers,' as amended by chapter one hundred and thirty-one of the laws of eighteen hundred and eighty-six, and as amended by chapter eighty-two of the laws of eighteen hundred and ninety-four, and as amended by chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-five, and as amended by chapter twenty-five of the laws of eighteen hundred and ninety-seven."

Senate bill No. 1461, entitled "An act to amend chapter three hundred and seventy-one of the laws of eighteen hundred and ninety-six, entitled 'An act to authorize the issuing of licenses to honorably discharged soldiers, sailors and marines for hawking, peddling and vending of merchandise within this state.'"

Senate bill No. 1469, entitled "An act to amend chapter one hundred and forty-five of the laws of eighteen hundred and ninety-seven, entitled 'An act to amend chapter eight hundred and ninety-three of the laws of eighteen hundred and ninety-six, entitled "An act to provide for the appointment of clerks to certain justices of the supreme court of the fifth judicial district."'"

Senate bill No. 1514, entitled "An act to amend chapter four hundred and forty-eight of the laws of eighteen hundred and ninety-six, entitled 'An act for the prevention of cruelty to animals, and empowering certain societies for the prevention of cruelty to animals to do certain things.'"

Senate bill No. 1531, entitled "An act to legalize and confirm the official acts of John Larkin, a notary public in and for New York county."

Senate bill No. 1620, entitled "An act to authorize union free school district number one of the town of Walton, Delaware county, to issue bonds for the purpose of refunding the present indebtedness of such district."

Senate bill No. 1702, entitled "An act relating to the classification of court interpreters in the first and second judicial districts."

Senate bill No. 1709, entitled "An act entitled 'An act to regulate the placing out of children, providing that they shall only be placed out in accordance with rules and regulations established by the state board of charities, authorizing the said board to make such rules and regulations, also providing that any violation of the provisions of this act shall be a misdemeanor.'"

Senate bill No. 1728, entitled "An act authorizing the superintendent of public buildings to estimate the value of the group of marble statuary known as the Struggle for Liberty and to consider and determine the advisability of the purchase of the same by the state."

Assembly bill No. 427, entitled "An act to amend chapter four hundred and eighty-two of the laws of eighteen hundred and sixty-two, entitled 'An act to provide for the collection of demands against ships and vessels,' as amended by chapter eighty-eight of the laws of eighteen hundred and eighty-six, in relation to amount of debt necessary to constitute lien and time of filing lien.'"

Assembly bill No. 457, entitled "An act to amend chapter six hundred and ninety-nine of the laws of eighteen hundred and ninety-four, entitled 'An act to regulate the sale of convict-made goods, wares and merchandise manufactured by convicts in other states,' relating to orders taken by salesmen and license fees."

Assembly bill No. 625, entitled "An act to permit experiments and the erection of bridge for developing the power of Niagara river, at the city of Buffalo, upon plans to be approved by the United States engineering department to protect navigation."

Assembly bill No. 689, entitled "An act to amend chapter two hundred and twenty-three of the laws of eighteen hundred and ninety, relating to the raising of money by towns for the proper observance of memorial or decoration day."

Assembly bill No. 865, entitled "An act to amend chapter two hundred and eighty of the laws of eighteen hundred and forty-five, entitled 'An act for the publication of the session laws in two newspapers in each county of this state,' as amended by chapter seven hundred and fifteen of the laws of eighteen hundred and ninety-two, in relation to designation of newspapers."

Assembly bill No. 1193, entitled "An act to amend chapter nine hundred and thirty-one of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to the labeling and marking of convict-made goods, wares and merchandise, and amending the penal code in relation thereto, and repealing certain laws, relative to the branding or stencilling of mats and matting.'"

Assembly bill No. 1089, entitled "An act to amend chapter four hundred and ninety-seven of the laws of eighteen hundred and eighty-six, entitled 'An act to authorize the villages of the state of New York owning water-works constructed pursuant to the provisions of chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five, to extend their water mains beyond their corporate limits,' as amended by chapter three hundred and twenty-nine of the laws of eighteen hundred and ninety-six, relating to the furnishing of water to other municipalities."

Assembly bill No. 1184, entitled "An act to provide for the employment of convicts at road building."

Assembly bill No. 1313, entitled "An act to amend title two of chapter three of part four of the revised statutes, as amended by chapter three hundred and eighty-two of the laws of eighteen hundred and eighty-nine, relating to state prisons and for other purposes connected therewith."

Assembly bill No. 1317, entitled "An act to confirm and legalize certain concurrent resolutions for printing, passed by the legislature of eighteen hundred and ninety-six, and certain resolutions passed by the senate and assembly, respectively, during said session, and for extra copies furnished for the use of the legislature of eighteen hundred and ninety-six."

Assembly bill No. 1533, entitled "An act to amend chapter two hundred and fifty-five of the laws of eighteen hundred and ninety-two, entitled 'An act to authorize the several towns in this state to establish lamp or lighting districts outside the limits of any incorporated village or villages therein, and to provide for the lighting of the public buildings, streets, avenues, highways and public places in said districts,' and the act amendatory thereof, relating to payments for such lighting."

Assembly bill No. 1670, entitled "An act to amend chapter six hundred and seventy-three of the laws of eighteen hundred and ninety-four, entitled 'An act entitled "An act to authorize and empower the board of trustees of villages incorporated under the act entitled 'An act for the incorporation of villages,' " passed April twenty, eighteen hundred and seventy, and acts amendatory thereof and supplemental thereto, to contract with lighting companies organized under the laws of this state for lighting the streets and public grounds of said villages,' as amended by chapter six hundred and sixty-three of the laws of eighteen hundred and ninety-six, relative to period of contract with lighting company."

Assembly bill No. 1820, entitled "An act to authorize the comptroller of this state to hear and determine the application of Jacob A. Mittnacht for the cancellation of the tax sales for unpaid taxes of lot number four in the Woodhill tract, in Herkimer county."

Assembly bill No. 2054, entitled "An act to amend chapter five hundred and thirty-three of the laws of eighteen hundred and eighty, entitled 'An act to regulate the passage of lumber, logs and other timber upon the rivers of this state, recognized by law or common use as public highways for the purpose of floating and running lumber, logs and other timber over or upon the same to market or places of manufacture.'"

Assembly bill No. 2180, entitled "An act to prevent fraud in the sale of paris green."

Assembly bill No. 2218, entitled "An act conferring local rank upon certain officers of the New York Soldiers and Sailors' Home at Bath."

Assembly bill No. 2264, entitled "An act to amend chapter six hundred and fifteen of the laws of eighteen hundred and ninety-five, entitled 'An act providing for the payment of five hundred dollars to the executor or administrator of a volunteer fireman who dies from injuries incurred in the performance of his duties.'"

Assembly bill No. 2295, entitled "An act to grant and release to George Kleindinst all the right, title and interest of the people of the State of New York in and to certain real estate in the city of Buffalo."

Assembly bill No. 2356, entitled "An act to provide for the reimbursement of certain expenses and disbursements paid and incurred by the several justices of the supreme court in the second judicial district, other than those residing in Kings county."

Assembly bill No. 2452, entitled "An act to amend title two of chapter three of part four of the revised statutes, relating to state prisons."

Assembly bill No. 2498, entitled "An act to provide for the appointment of clerks to certain justices of the supreme court in the sixth judicial district."

Assembly bill No. 2507, entitled "An act to amend chapter nine hundred and seventy-two of the laws of eighteen hundred and ninety-six, entitled 'An act for the protection of the Saranac river in the village of Saranac Lake, Franklin county.'"

Assembly bill No. 2556, entitled "An act relating to and defining dispensaries, requiring them to be incorporated or licensed, forbidding their establishment in a 'drug store' or a 'tenement-house,' providing that the word 'dispensary' shall only be used in connection with an incorporated or licensed dispensary, that persons shall not obtain relief from dispensaries by false representations, and that a violation of this act shall be a misdemeanor; also empowering the state board of charities to make rules and regulations and to annul or suspend incorporations and to revoke licenses."

Assembly bill No. 2575, entitled "An act for the release to William R. Peters of any claim of the people of the state in and to certain lands within the city of New York."

Assembly bill No. 2600, entitled "An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the state of New York,' in relation to residence of candidates for examinations."

Assembly bill No. 1427, entitled "An act to locate and establish the boundaries of union free school district number seven in the town of Cortlandt."

Assembly bill No. 1952, entitled "An act to provide for holding biennial elections of town officers at the same time as general elections, in the town of Goshen, county of Orange."

Assembly bill No. 2490, entitled "An act to empower the town board of the town of Guilderland to appoint a justice of the peace for the first district of the said town of Guilderland."

Assembly bill No. 2721, entitled "An act to fix the period of time for making the annual assessment and the compensation of the assessors in the town of Greenburgh, in the county of Westchester."

Senate bill No. 747, entitled "An act to enable the electors of the town of Hancock, county of Delaware, to vote in three separate places at town meeting."

Assembly bill No. 2256, entitled "An act in relation to the personal property of the town of Hempstead, in Queens county."

Assembly bill No. 2694, entitled "An act providing for the payment of the two per centum tax collected from foreign fire insurance companies in the towns of Jamaica and Flushing."

Assembly bill No. 2574, entitled "An act to reimburse the town of Lenox, Madison county, for moneys expended by said town in the construction of a bridge over the Douglass state ditch on the Tackabury road in said town, in place of a bridge destroyed by the widening of said ditch by the state authorities."

Assembly bill No. 2749, entitled "An act to authorize the town board of the town of Manlius in Onondaga county to change the location of the soldiers' monument in said town."

Assembly bill No. 2292, entitled "An act requiring the county of Ulster to pay a portion of the expense of a free bridge heretofore constructed in the town of Marbletown, in such county."

Assembly bill No. 2439, entitled "An act to amend chapter seven hundred and twenty-seven of the laws of eighteen hundred and sixty-six, entitled 'An act to consolidate school districts numbers one, three and fifteen and part of district number two of the town of Mount Morris, county of Livingston, and state of New York, into one school district,' and to repeal certain sections thereof."

Senate bill No. 1425, entitled "An act relating to the election of school district officers in district number ten of the towns of Halfmoon and Stillwater, at Mechanicville."

Assembly bill No. 1532, entitled "An act to amend chapter four hundred and ninety-five of the laws of eighteen hundred and sixty-three, entitled 'An act to provide for building a bridge over Chambers' creek, in the towns of Newburgh and New Windsor, in the county of Orange, and for making the present toll-bridge over Murderer's creek, in the town of New Windsor, free.'"

Assembly bill No. 1459, entitled "An act authorizing the raising and appropriating by the town of North Hempstead of moneys to support inmates of the hospital of the Nassau Hospital association, at Mineola, in the town of North Hempstead."

Assembly bill No. 2692, entitled "An act to legalize the annual election for town officers in the town of Oyster Bay, Queens county, held on the sixth day of April, eighteen hundred and ninety-seven."

Senate bill No. 1246, entitled "An act to empower the town of Olive in the county of Ulster to issue bonds for the purpose of improving Bushkill creek within the town of Olive, in the county of Ulster."

Assembly bill No. 2570, entitled "An act to reimburse the town of Sullivan, Madison county, for moneys expended by said town in the construction of a bridge over the Douglass state ditch on the Gee road in said town, in place of a bridge destroyed by the widening of said ditch by the state authorities."

Assembly bill No. 1962, entitled "An act to legalize the division into election districts of the town of West Turin, in Lewis county."

Assembly bill No. 2336, entitled "An act to amend chapter sixty-eight of the laws of eighteen hundred and sixty, entitled 'An act to consolidate and amend the several acts relating to the village of Catskill,' and to fix, locate and establish the bounds of said village."

Assembly bill No. 2332, entitled "An act to amend chapter four hundred and forty-nine of the laws of eighteen hundred and seventy-one, entitled 'An act authorizing the trustees of the village of College Point to issue bonds and borrow money for the erection of a school-house in said village, and to increase the school tax in said village,' as amended by chapter one hundred and eleven of the laws of eighteen hundred and eighty-seven, relative to tax for school purposes."

Senate bill No. 1450, entitled "An act to authorize the village of College Point, in Queens county, to convey certain real property to the board of education of school district number seven of the town of Flushing, in the county of Queens, New York."

Senate bill No. 1681, entitled "An act to authorize the village of Flushing to expend moneys raised by excessive issue of bonds under chapter five hundred and four of the laws of eighteen hundred and eighty-seven, for general village purposes."

Assembly bill No. 1597, entitled "An act to authorize the village of Flushing to borrow money in anticipation of arrears of taxes, and to issue bonds therefor."

Assembly bill No. 2453, entitled "An act to amend chapter three hundred and twenty-two of the laws of eighteen hundred and ninety, entitled 'An act to revise, amend and consolidate the several acts relating to the village of Plattsburgh, and to repeal certain acts and parts of acts,' relative to elections."

Senate bill No. 1235, entitled "An act making sections six and seven of title six of chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, applicable to the village of Plattsburgh."

Assembly bill No. 2670, entitled "An act to amend chapter two hundred and six of the laws of eighteen hundred and fifty-one, entitled 'An act to revise, amend and consolidate the several acts in relation to the village of Salem, in the county of Washington,' relating to the establishment of an electric light plant in and by said village."

Assembly bill No. 2778, entitled "An act to provide for the removal and disposal of the sewage of the village of Saratoga Springs."

Senate bill No. 876, entitled "An act to amend chapter five hundred and eighteen of the laws of eighteen hundred and sixty-seven, entitled 'An act to incorporate the village of White Plains, and the several acts amendatory thereof.'"

1898. JANUARY 5. LEGISLATURE, ONE HUNDRED AND TWENTY-FIRST SESSION.

FRANK S. BLACK, Governor.

ANNUAL MESSAGE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,
ALBANY, *January* 5, 1898.

TO THE LEGISLATURE OF NEW YORK.—The course of the Legislature now convened will affect in many important respects, for a long time to come, the policy of the State. I submit the suggestions in this message, not only as formal recommendations, but as the expression of an active purpose to aid in carrying them out.

FINANCE.

The valuation of the State is $4,506,985,694. The State tax for the present year is two dollars and sixty-seven cents on a thousand dollars. This rate produces the sum of $12,033,681.80. Of this amount more than nine million dollars are paid to run the public schools and for the care of the insane. The last subject was placed under State control in the year 1895, so that the tax rate prior to that year was smaller than it can possibly be now or hereafter, and is worthless as a comparison with the rate of later administrations, which have dealt with these large expenditures. Last year's tax rate can be reduced this year, because the amounts to complete the Capitol and buy Adirondack land will be less. The receipts from licenses to sell liquor, tax on inheritance, etc., were $8,245,172.87, an excess over last year of $314,944.21. The expenditures for asylums, hospitals, reformatories, etc., were $7,362,559.85. The total funded debt of the State on September 30th was $5,765,660. During the year just passed, the revenue from the liquor tax law has increased more than $438,000.

BANKING.

There are two hundred and twelve banks of discount organized under the State law. Last year there were two hundred and thirteen. The resources of these institutions have gained in twelve months over fifty-five million dollars; more than twenty per cent. Their discounts and deposits have both increased, the latter nearly fortv-three million dollars. The magnitude of the banking department appears in the total resources of the institutions under its charge, viz., $1,695,254,960, an increase of more than one hundred and thirty-seven million dollars since the report a year ago.

The condition of any business community is likely to show at the bank. For that reason the figures named express both improvement for last year and encouragement for next.

INSURANCE.

The insurance companies, including fire, marine, life and casualty, doing business in New York, are two hundred and twenty-eight in number, and represent a capital of $77,820,975, with a surplus of $265,390,505. Their condition appears to be most satisfactory. The insurance business is rapidly increasing. The labors of the insurance department during the year 1897 largely exceeded those of any year preceding. The importance of a careful supervision of an enterprise so enormous and far reaching is apparent. Nearly every house-holder in the State is an investor in one or more of these companies, and all the laws relating to the subject should be carefully framed and considered, to the end that the companies and the people, mutually dependent, shall be guaranteed their respective rights.

RAILROADS.

The law passed by the last Legislature relating to grade crossings, will ultimately remove this prolific source of railroad fatalities. The operation of the law will require a considerable annual outlay by the State, but it should be made.[1] The railroad mileage for last year has slightly increased. The number of miles is now over nine thousand, and the reports of the Railroad Commission show that the business during the past few months is largely in excess of that for the same months last year.

CANALS.

The work of deepening the canals, for which an appropriation of nine million dollars was made, cannot be completed for that sum. The amount has been disposed of by payment or contract, and less than two-thirds of the intended improvement has been provided for. Completing the work is the last half of the same project that begun it. It is a subject of the utmost importance. The canals have been a potent factor in the development of the State. The Erie canal was completed in 1825, and over it for more than seventy years the enormous traffic of the west has found its way to the Atlantic seaboard. The cost of building all the canals, of maintaining them since, and enlarging them now, is upwards of $97,628,867.45, and yet the commerce passing over them paid that enormous amount in tolls in less than sixty years. The canal problem is too serious to be decided by the Legislature. The nine million dollar appropriation was voted by the people. If a further sum is to be expended for the continuance of the work, it also should first receive the people's sanction.[2]

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[1] Chapter 217, approved April 6, appropriated $100,000 for the purpose of carrying into effect the provisions of the grade crossings law of 1897, chapter 754.

EXCISE.

The amount received during the past year from the operation of the Excise Law was $12,275,247.60. One-third of this amount, over $4,000,000, has been paid the State, and the other two-thirds, over $8,000,000, has been divided among different localities. On the 1st day of October there were 28,054 licenses outstanding. The number in force before the present law went into effect was 33,437 and the amount of money receipts therefrom was $3,172,376.58, hardly more than one-quarter of the present income from the same source. The receipts have nearly quadrupled and the number of licenses has decreased almost one-sixth. The records of the police courts in forty-one cities and four hundred and thirty incorporated villages, show that notwithstanding an increase in population, the cases of drunkenness have fallen off to a marked degree. The uniform law and rate of taxation throughout the State have done much to equalize the privileges of this traffic and to remove many of its objectionable features. If amendments are proposed which will improve the present act, I shall favor their adoption.

AGRICULTURE.

The appropriations for this department have been wisely made. The item which has proved the most satisfactory was that to encourage the cultivation of the sugar beet. The industry is now largely experimental, but the results attained this year were such as to justify the liberal cooperation of the State. Inducements to farming in New

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[2] As to a further appropriation for canal improvement, and an inquiry as to an expenditure of the $9,000,000 appropriated by the act of 1895, chapter 79, see note 11.

York are not as great as they formerly were. The development of the west has gradually trenched upon the lucrative employments of the eastern farmers, until their incomes are small and uncertain, and their burdens almost oppressive. The farmer can never escape his taxes; whatever means of escape may be open to others are closed to him. And in the distribution of the load, this fact should be borne in mind, and the Legislature should so treat him as not only to encourage his industry, but to show also that the State is mindful that he, least of all among its citizens, finds exemption from the burden of taxation.

COMMERCE.

I have been so impressed by this subject, in its relation to the State, that I communicate with you, not only for your co-operation, but in the hope of arousing the attention of those most closely in touch with the question and, therefore, best qualified to handle it. No man can contemplate the past history of New York without feelings of pride. Surrounded at the beginning like her sister commonwealths, with conditions which seemed almost without hope, she has in a few years attained the dimensions of an empire. This transformation has been wrought through the unexampled gifts of Nature, and the industry and skill of citizens protected by a wise and just government. If these reflections inspire pride only, without determination, their main value is lost. An inspiration that produces no result, is no better than an agreeable recollection. There must be some practical test of the effect of former achievements upon our present energy. This test will be found in the manner in which the people of this State deal with the subject of their commerce in its present situation. That situation is not as it ought to be. It is easily the best in the country, but it is not so much the best as it has been and can be made. The commerce of New York is not increasing as rapidly as that of other ports. Perhaps this is inevitable, for the first of yesterday may be the second to-day, and out of the race to-morrow. But it is not likely that New York is suffering from conditions which she cannot overcome. The conditions which hold her back seem to be neither natural nor general. It is said that the commerce tributary to New York city has been checked and discouraged by a too narrow policy prevailing there with reference to terminal facilities. If this is true, that policy should be corrected, no matter whether it is pursued by the city or by individuals. The facilities of New York belong not to the city or even to the State, but to the country. If by location she is the best point of shipment to foreign markets for western farmers, then her advantages should be open no more to a Broadway merchant than to a Kansas farmer. And the rights of the latter should not be abridged by restrictions or charges which would drive him to Galveston or New Orleans. Every citizen in this country has a right to get to the sea with his product, no matter whether he lives on the coast or not, and he should not be subjected when there, to unreasonable demands from those who have accommodations which he is obliged to employ. Some communities are so placed that their course not only interests, but largely affects others. To the extent in which this is true, just to that extent has the public the right to advise and direct those so situated. New York city is in this class. Her affairs are not local, but national, and this view receives constant recognition at the hands of the general government. Millions of money from the general treasury have been expended in New York with national sanction, and millions more should be expended now in the single project of deepening the approaches to her harbor. But this national aspect cannot be urged when her benefits are considered and denied when others claim theirs. This State should open such facilities in New York harbor as will draw and accommodate every pound of commerce which would naturally come there. The desire on the part of individuals or of the city, for rapid accumulations should not prevent this result. The broadest and most liberal policy is the wisest. An outlay for such a purpose would be repaid tenfold in pecuniary returns and in the growth and prestige of the State. Neglect or carelessness in dealing with this subject would put New York at a disadvantage with other ports in the United States, and might put the whole country at a disadvantage with Canada. The Canadians are just now discussing this subject, and are relying upon advantages afforded by the St. Lawrence river, to attract over that stream, the products of Wisconsin, Minnesota, Dakota and other western States, intended for foreign markets. This competition should be feared and met.

In order that this subject may be treated with that consideration and care which its magnitude demands, I recommend that a commission be created to examine into the commerce of New York, the cause of its decline, the means of its revival, and to report conclusions.[3]

THE CAPITOL.

The plans of the Capitol at Albany have been changed so often they would hardly be recognized by the man who made them, nearly forty years ago. The last change was made and the present plans adopted by the Capitol Commission, February 11, 1896. There will be no further alteration. The structure will be completed, the sheds torn down and the walks laid out, before the first day of next October. There has not been a time in the last fifteen years that reasonable effort would not have accomplished these things in twenty-four months.[4]

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[3] Chapter 644, approved April 29, authorized the Governor to appoint a commission composed of five persons "to examine into the commerce of New York, the cause of its decline and the means of its revival, together with a summary of conclusions to be drawn therefrom, and to suggest such legislation as they deem advisable."

The commission was appointed by Governor Black on the 19th of July. The commission was required by the act to report to the Legislature not later than the 15th of January, 1899. Governor Roosevelt in his annual message in 1899, recommended that the commission be given additional time to close its work. The Legislature at this session (1899) passed an act, chapter 494, extending the commission's time to present its report to the 1st of November, 1899.

The report of the commission was transmitted by Governor Roosevelt to the Legislature on the 25th of January, 1900. For the text of the report, see Assembly Document No. 69, which with the appendix fills three volumes. The commission recommended the further appropriation of $15,000,000, and also legislation intended to provide additional pier and dock facilities in New York and Buffalo. Several bills intended to accomplish these purposes were submitted by the commission.

THE NATIONAL GUARD.

The National Guard still maintains the character which has long entitled it to general commendation. It would be better if it was removed farther from political control. If some practical method of doing this can be devised, which meets the approval of military men, I shall recommend it. The Guard and Naval Militia consist of about fourteen thousand of the finest young men of the State. They serve without pay, and their reasonable demands should be complied with.[5]

SCHOOLS.

The schools of this State are unsurpassed by those of any other. We should not be satisfied with a system because it is the best in use, unless it is the best that can be devised. There is little hope that public money will ever be prudently expended, but if that improbable result should ever be attained I should still be in favor, as I am now, of the greatest liberality in school appropriations. The character of the citizen is largely formed in his childhood, and if more were confined in schoolhouses in their youth, there would be fewer confined in other institutions in later life. The right of the State to compel the education of its children is as clear as its duty to protect or punish its citizens. We are spending millions of dollars every year for paupers, criminals and the insane. Whatever will reduce the number of these unfortunate classes should be done, and the means more effective than all others, is the instruction of children. The number of pupils in the public schools this year is 1,203,199, an increase of 27,125 over last year. To maintain these schools the State appropriated $4,981,858 last year, and will be called upon for as much more this. Attendance at school, if not voluntary, should be compelled, for this enormous expenditure should be not only a recognition of the duty of the State to educate its citizens, but a declaration of its right to control them.

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[4] Chapter 206, passed March 31, appropriated $450,000 for continuing work on the capitol, and chapter 606, appropriated $84,000 for completing the capitol, and laying out adjacent grounds, building walks and for sundry expenses connected therewith.

[5] The Military Code was revised at this session, chapter 212, approved April 2. The new code included provisions made necessary by the new militia article in the Constitution of 1894, and was intended to be a consolidation and revision of all the statutes relating to the national guard and naval militia. § 14 of the Military Code, (action against an officer) was sustained in McLaughlin v. Kipp (1903) 82 App. Div. 413.

UNIVERSITY OF THE STATE.

New York has in her university an organization nearly as old as the State itself. Its work has established its reputation at home and abroad. Those who plan for the future of the State know that its greatness will depend no less upon its educational interests than upon its material prosperity. All admit the value of elementary education, but many fail to understand that higher education pays equally as well. The common school draws mainly from the State, but for higher institutions the field is boundless. Those who spend years in arduous training seek not the cheapest or the nearest, but the best, and if New York's schools are at the head they will be sought by students from other States. The recent administration of the University knows the methods of reaching desired results. Under it, new currents are setting toward New York. Its field is broadening every year. The best educators believe that system is nearest perfect, whose instruction does not end with the period of youth, but continues through the student's life. The library is a chief agency in this continuance. New York, the pioneer in many fields, was the first in this or any country to recognize by statute the efficiency of the public library as a part of its educational plan. We have over five hundred traveling libraries of the best books published. They are loaned for six months to any community requesting them. Other States have adopted this part of our system. Knowledge gained from good books means increased power and better citizenship. The University has seen and developed this idea. Its progress has been rapid, its influence beneficent and lasting. Local free public libraries are springing up under its lead. In the last four years the number of libraries has increased from 201 to 340, and the books from 404,616 to 1,038,618. There is careful discrimination in favor of the best books; for reading produces evil as well as good results. It is a ladder which may be used to climb to the summit or descend to the pit. Thousands of doubtful books are yearly disapproved and local authorities are glad to accept the University's intelligent supervision. No State has before dealt with this question on so broad a plane. Our State Library is by far the largest and most efficient maintained by any State. It is the center of a great work, the strongest ally of the public schools, and its influence develops constantly. New York has been the teacher in these vital, new ideas and has received, the world over, most generous recognition. Its place in this important field is that of acknowledged leadership.

CHARITIES.

There are more than 1,000 charitable institutions and private charitable organizations in this State. About 70,000 people are cared for at an expense of over $20,000,000. There are twenty-two institutions wholly or partly maintained at the public expense. It is proper and humane to care for the incompetent poor, but there has been sometimes a degree of extravagance in this direction which should never be tolerated again. Some institutions have been constructed at a cost of over $1,000 for each inmate. Such an expenditure should not discourage the humane purpose of the State, but it should be the last example of the reckless indifference sometimes shown by public officials to the rights of the State and their own obligations.

THE INSANE.

All of the dependent insane are now cared for in State hospitals. They receive skillful medical treatment and proper nursing. Nearly 1,000 returned to their homes last year, cured, and more than 800 were sufficiently improved to warrant their discharge. The chief object of these institutions should be, both from the standpoint of benevolence and economy, to effect the largest possible number of cures. The annual cost of maintenance, $186 for each patient, seems high, and perhaps might be reduced, but if this cost were reduced the facilities supplied must also be curtailed. This would probably cause a decrease in the percentage of cures. There would be nothing made by a smaller expense for each patient, if the number of patients was increased enough to offset the saving. If the cost of maintenance can be reduced without materially affecting the number of recoveries, it should be done, for the amount, almost $5,000,000 paid yearly for insane paupers, is a large figure to be added to the taxes.

The condition of some of the asylums around the city of New York should be corrected. They are not suitable for the habitation of large numbers. Imperfect ventilation and drainage render them unhealthy, while their frail construction is insufficient either to keep out the cold or withstand for a minute the ravages of fire. There are two extremes in this State in the care of the insane. One is so extravagant and the other so poor that both deserve censure. The State is paying every dollar it ought for its pauper insane.

Money enough has been expended to provide comfortable quarters for every inmate, but waste in some places and neglect in others, have produced the extremes I describe. The first cannot be corrected, for the outlay is made, but the last can and ought to be without delay. All the money to be paid out for new buildings should be devoted for some time to come to the institutions around New York city, and the amount thus expended should be increased to the utmost limit by keeping the expenses of other institutions, now well provided for, down to the smallest figure. Whatever structures are built, should be comfortable and substantial, nothing more, and the practice of erecting palaces at the public expense for the accommodation of paupers has, I hope, seen its last example.

A pauper is not, because of his insanity, entitled to extravagant fare or gorgeous surroundings. The large majority of farmers and mechanics live in the humblest way and contribute by tax to the support of State institutions. Justice to them will not permit, and humanity to the insane does not require, that lavish and ill-considered outlay which characterizes the quarters holding some of the State's insane.

I do not consider the present commission in any way responsible for this condition. I have visited some of the insane establishments and their management is worthy of commendation, but I would enjoin upon such management the constant recollection that the expenses of these inmates are paid by many thousands on the outside whose surroundings are far less comfortable.

PRISONS.

The difficult task of providing work for prisoners without competing with honest labor, appears to have been successfully discharged. The operation of the present law is reported to be satisfactory. Nearly two-thirds of the convicts in the State's prisons are now employed, and within three months the commission expects that means will be provided to employ all those who are able to work. It seems likely that the present law will solve the question of convict labor, and at the same time render the prisons self-supporting.

One defect connected with prison management has been often discussed, but never corrected. It is the law relating to the Elmira Reformatory. The authority of the managers there over inmates is too arbitrary and extensive. The courts often find that sentences intended to be slight, are prolonged for years. A boy can be retained in that institution at the managers' discretion, for the maximum term for which he might have been sent to State's prison by the court. The judge imposing the sentence may never have contemplated any such duration. It not infrequently happens that boys committing their first offense jointly with and tempted by an old offender, are sent to Elmira and kept there for years after their associate in the same offense, a hardened criminal, has been discharged from prison. The managers have power also to transfer inmates to the State's prison for their unexpired terms; to bring them back again to the reformatory; to release them on parole and retake them at discretion. This system may result in gross abuse. A prisoner's term should not depend upon the will of his keeper. The court should fix it. The court will be impartial, the keeper may not be. The court will punish only for the crime already done, the keeper may punish for slighter causes arising afterwards.

It is just to reduce the term for the good behavior of the convict, but the limit beyond which his confinement should not go, should be determined by the judge who tried him.

LABOR.

The upheavals so often occurring through the disagreements of labor and its employers, point to a far greater degree of danger and discontent than those upheavals expose.

The present method of dealing with this subject seems to me inadequate. The labor bureaus in this State are as efficient as their authority permits them to be, but an agency that only corrects, but does not prevent, can not meet the needs of the present day, and will be farther every year from meeting the needs of the future. If present conditions continue, disputes will frequently arise, and I believe it would be wise to encourage the method of University Settlement. No man can be a fair judge who does not understand both sides, and while he may acquire this understanding after the trouble has arisen, his capacity to effect a settlement is greatly reduced because of the inflammation which invariably goes with a declared grievance. It is not only harder to settle a dispute when opponents have come face to face, but in the case of labor troubles, large sums of money are lost, while the dispute goes on. The plan of University Settlement is not so much to compose differences, as to prevent their occurrence. Its wisdom is obvious.

But the seed of labor troubles lies in the practically unrestricted immigration, by which this country allows itself to be overrun. There is no safety in protection against foreign goods if we allow free trade in foreign labor. A tariff on goods made abroad covers only half the difficulty if the men who made them there are permitted to come here and make the same goods in New York. An article made for half a dollar there, will be made for the same price here. Those who have watched the recent troubles in this country will recall that many of them were with cheap and uneducated labor, employed because it was cheap and uneducated, and for wages with which no self-respecting American could keep his soul and body together. As long as such labor comes here, just so long wages will go down, work will be scarce, and those who must have decent wages because they must live in a decent way, will find employment hard to get.

If the laboring people of this State will understand the real cause of their trouble, and remove that, they will have less need of legislation. They should make their views known to Congress through their own petitions, and the Legislature should aid them by its expression. If, through their efforts, one of the greatest abuses now existing in the United States could be checked, they would perform a lasting service.

In connection with this labor problem, I make these three suggestions: First, that immigration be checked; second, that a fair rate of wages be paid laborers; the public at least should deal justly; third, that in opposing strikes by armed men, some method should be adopted which would not at the first discharge of firearms, produce those fatal, tragic results which have caused a recent event to be universally deplored.

THE FORESTS.

The project urged in my first message, of acquiring Adirondack lands, has been fully entered upon. I am strongly in favor of its continuance. With the appropriation of a million dollars made by the last Legislature, the Forest Preserve Board has acquired over two hundred and fifty thousand acres, at an average cost of $3.74 per acre, increasing the ownership of the State from 869,341 acres to nearly a million one hundred and twenty thousand. Many tracts of ground most desirable from every point of view have been added to the State's possessions.

I am more than ever impressed with the importance of this subject, and of the necessity of the State's acquiring and preserving the great forests. I referred last year to their value as a health resort and as a means of renewing the decreasing supply of water. There are other considerations not less important than those then urged. They are found in the rapidly diminishing supply of timber, and in the great demands made upon the spruce forests by the pulp mills of the Adirondack region. The present Constitution of the State prohibits cutting timber on State lands.[a] This prohibition will sometime be changed, for its continuance, except under conditions which ought not long to exist, would be unwise. It is no better for the State than for an individual to allow trees to fall and decay, when by cutting them substantial revenue might be obtained. The science of forestry has demonstrated that trees of a certain age and maturity can be cut, not to the detriment, but to the advantage of those remaining. The life of a tree is measured, and whether it is removed by man or falls by its own weight, its destruction is certain. If removed and sold, the price goes to the owner, the process supplies work to the laborer and the lumber supplies a need which is harder every year to fill. On the other hand, if the tree falls by itself, mankind receives no benefit, but the small trees around it that are crushed and bent, are destroyed, when they might be saved if immediately relieved from its weight.

Nearly every product springing from the earth can be gathered and Nature will renew the supply. Trees are no exception. Forests of spruce and pine can be cut over at intervals varying with conditions. The remaining smaller trees will grow faster because the larger ones are removed. This process not only yields revenue and improves the forests, but it greatly increases the quantity of timber which the forests will produce. In the Adirondacks I understand that the yield of spruce timber to the acre is now about twenty-five hundred feet, while in forests that have been cared for, where the cutting has been judiciously done, the yield is from thirty to forty thousand feet to the acre; from twelve to sixteen times as much. This larger yield from the cultivated forests occurs at intervals of comparatively few years in length, while in the Adirondacks, neglected and misused, a single crop seems to have been considered the end.

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[a] Const. 1894, art. 7, § 7.

The supply demanded by the pulp mills is another great consideration. Many millions of dollars are invested in the ninety-one mills of this State. Spruce trees in enormous quantities are required to supply them. The pulp industry as well as the lumber trade should be protected. These two industries confer benefits which reach as far as any other industry now carried on. The pulp goes into paper, the lumber into houses, and all our population feels in some way the contribution of those two trades. Thousands of men are employed in the Adirondacks who earn their living in these vocations. The process of State acquisition should go on, not only because the needs of all the people are greater than the needs of any, but because a wise pursuit of this policy will be followed by pronounced benefits to the State, to the industries I have named and to those people feeding upon them. In Germany and France, and I understand to some extent in New Hampshire, scientific forestry has long been followed. The results have been productive beyond the comprehension of those people who, in this State, have stood by and without effort or protest, seen their magnificent forests gradually swept away. The Constitution should not be amended until the people have learned prudence instead of waste and have equipped themselves with knowledge and experience adequate to the care of this great domain. Our conditions here are not like those in Germany or France, but in what respects they differ few can tell.

There are students here who have made a careful study of the forests, their capacities and needs. The number of these gentlemen I understand to be increasing, for through the labors of several of our citizens of great generosity and public spirit, the subject has been studied and discussed, and upon the general ignorance relating to this question there is beginning to be some light. The knowledge necessary to the proper treatment of the woods, must come largely through experiment. It cannot be had unless the means of acquiring it are provided. I believe the means can be secured best through the purchase by the State of a tract of ground covered with those trees which are to be the subject of experiment. Such a tract the State could set apart and gain from it the knowledge which will enable it by and by to deal with the millions of acres it has already and will in the meantime acquire. The time will come when the State will sell timber to the lumbermen, spruce to the pulp mills, reap a large revenue for itself and still retain the woods, open to the public, protecting the sources of water, growing and yielding under intelligent cultivation. The management of this experiment should not be subject to the vicissitudes of politics. It should be placed in charge of the Regents or of the trustees of Cornell University or of some similar body not subject to political change. The State should pay such reasonable sum as may be needed to administer the plan. Reports should be made to the Governor and the Legislature annually of progress and results. The income from the track so acquired should be paid to the State and the land itself should become the absolute property of the State, and a part of the forest preserve, at the expiration of a period named.

I believe such a plan would be soon, if not at once, self-sustaining, for the trees now ready to be cut would produce immediate revenue, and such revenue would be repeated at short intervals. The benefits could be hardly over-stated, and in this direction, as in many others, the wisdom of New York entering upon a comparatively new and untried field, would be finally approved.[6]

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[6] The policy of forest cultivation suggested by the Governor was expressed in chapter 122, passed March 26, "to promote education in forestry, and to encourage and provide for the establishment of a college of forestry at Cornell University." The act authorized the trustees of Cornell University to establish in that institution a department to be known as the "New York State College of Forestry for the purpose of education and instruction in the principles and practices of scientific forestry," and for this purpose the trustees were empowered, with the consent of the forest preserve board, to

CIVIL SERVICE.

The law enacted last year, known as the Lexow bill, is the best civil service law this State ever had. It is a distinct gain over previous laws in the direction which the best friends of the service most desire. The information of the public upon the subject of civil service reform is more imperfect than that upon any other subject so generally discussed. Most men are for or against it with reasons and information so slight that their opinions are of little value. There is nothing in the new law and there was nothing in the old, to prevent removals with or without cause. There was no restriction under either. Places could also be filled regardless of the law if those employed to administer, chose to nullify. The same opportunity exists now, but in a less degree. Some who are unfamiliar with the subject fear that under the present law some injury may be done to the public service in New York city. Such fear has no basis, for three reasons. First: A large number of officers appointed three years ago, and whose places will be filled again now, belong to the class which has never been controlled by any so-called civil service law. Heads of departments, deputies, secretaries, stenographers, and all others holding relations of confidence or peculiar responsibility, have always been exempted under every law. Second: Because it is harder to cheat the new law than the old, and third: Because a majority of the employes of New York

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acquire at the expense of the State 30,000 acres of land in the Adirondack forests.

The title to the land was to be held by the University for thirty years, at the expiration of which time the trustees were required to convey the land to the State. The act contained regulations concerning the administration of the project by the University, and appropriated $10,000 exclusive of the amount needed for the purchase of land.

Chapter 200, passed March 31, appropriated $500,000 for continuing the purchase of land in the Adirondack Park.

A tract of 30,000 acres near Saranac Lake was purchased for $165,000, under the Cornell act, and the school of forestry was established in connection therewith.

city are the creations of the same political forces that have just returned to power and such employes have never been removed. It certainly was no fault of the new law, that over fifteen thousand whom Tammany Hall left in office three years ago, at the time of her inglorious departure, she finds still there on her triumphant return. I mention this last circumstance to place the credit where it belongs, and without professing to see in it any superiority of the old civil service law under which these appointments were originally made and to this day uninterruptedly enjoyed.

A better understanding of the subject and of the laws and rules which attempt to control it, would readjust the standing of disputants and place many whose feelings are now hostile, in the attitude of friendship. That abuses exist in the service is true, whether admitted or not. The public gets less for its money than individuals get for theirs. The office-holding class while in theory the servant of the people, enjoys the privilege which many other servants do, of getting from their employers much they have not earned. The power of this class is large, and will not, with its consent, be decreased. It should not with the consent of the public be enlarged. The people will not be wise if they permit its influence to extend where they cannot control it if they choose. For these reasons I have never favored indefinite tenure in office. Such tenure might result in better service, but would quite as likely result in worse. While the service might not be the best, it might still not be bad enough to justify removal. The one thing morally certain in a fixed plan of indefinite continuance in office is that place holders would be beyond the people's reach. I do not believe this would raise the efficiency of the service. The knowledge in an employe that his place can be taken from him, is more likely than any other influence to make his work such that his superiors will not wish to remove him. His accomplishments are his protection. This is proved in every department of the State where competent men have retained their places under all administrations for years. And while they protect themselves, the public is also protected by retaining the right to dismiss. This right the public should never surrender. In this country no office-holding class should ever be created. Such class would be inconsistent with the principles, the history and every purpose of a government like this. The people should retain control. They employ and pay and should so far retain the management of their business as to keep whom they desire and discharge whom they please. They should also be free to select help as men select theirs, regarding every quality which makes applicants desirable or the reverse.

These propositions seem to me plain and correct. If they are, then that law is the best which comes nearest to carrying them out. Perhaps this can be done better than the Lexow bill will do it, but the Lexow bill is now doing and will hereafter do better than any law heretofore has done. The Constitution of the State requires that places in the civil service shall be bestowed according to merit and fitness, to be determined in competitive examinations.[b] Under the old law and the rules carrying it into effect, merit and fitness for the State service were determined by examinations which, in my judgment, were utterly inadequate. They made success or failure depend mainly upon the educational attainments of the applicant. The examination papers in recent years, for entrance to the State's employ, show this to be true. Qualities of character, habits, tact, endurance, played little part in the result. The importance of such qualities no one disputes. Their value is such that no private business anywhere engages help without an examination which embraces them. The servants of the public should not be inferior to the servants of individuals, and a system which does not discover such inferiority is defective. The Lexow bill remedies that precise defect. Its operation has not in any way diminished the educational tests of the old system, and was not intended to do so, but it added to the scholastic examination another which should disclose and take into account those necessary qualifications which the first examination left out. The standard of merit under the old rules was not diminished by the new. The first required at least seventy per cent. out of one hundred, the second at least thirty-five out of fifty. Everything required then is required still, and if a candidate fails in the examination for scholarship or merit, he cannot take the second for the qualities which prove his fitness. There is, therefore, no chance for incompetent persons to be crowded into public service. The requirements are not narrowed; they are enlarged. Many who could enter the service under the old system would fail under the new.

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[b] Const. 1894, art. 5, § 9.

If a fitness examination is required, somebody must hold it. Those most competent to do so are they who know the precise qualifications required. This would mean the person for whom the services were to be rendered. Furthermore, if examinations are conducted by different authorities, there will be less chance of favoritism than if both are held by a single examiner. The larger the number of examiners the less chance of collusion, for all must agree to defraud the law or it cannot be done.

It is said that the head of a department may be dishonest. That is true, but there is no certainty that an examining board will not be afflicted in the same way. The criticism aimed at one, reaches both. The fear that this law will not work well is founded upon the suspicion that the appointing power may not be faithful, but the success of the system in any event must rely upon the good faith either of the officer appointing or of the examining board, or both. This means only that every undertaking must depend upon the integrity of those who carry it on. All relations rest upon confidence, and against their failure through betrayal there is no safe-guard except the character of men and the restraints of law. The head of a department is no more likely to fall short than a member of a civil service commission. Both may have been appointed by the Governor. The likelihood would be no greater if both were elected by the people. Besides, a department is responsible for the person it appoints, while a commission has no responsibility for the person it recommends. If there is an intention to evade the law, the powers of the commission in that direction are far greater than those of the head of a department. The former deals with all departments, the latter with only one.

The rules under the new law are in my opinion an improvement upon those previously in use. For example, the old rules kept a person who had passed an examination, on the list for a year; under the new he must notify the board every three months that he desires his name retained and is willing to accept employment in the State's service. The old rules allowed a candidate on the eligible list to refuse employment three times, and to keep his place there until the third refusal. The present rules compel him to accept the first offer of employment or his name is stricken from the roll and can be restored only by another examination. The reason for these changes is sound. The old rules sometimes seriously embarrassed a department in need of help. A demand upon the civil service board might receive the name of a candidate who had died or left the State a year before. This difficulty was obviated by the new rule which requires every candidate to keep in touch with the board, by a notice every three months. The same name could formerly be sent to three different departments, one after another, so that each of the three was subjected to the delay and trouble of learning for itself, that the name submitted was dead. This produced embarrassment depending upon the urgency of the business requiring attention. This was corrected by striking the name from the list after the first refusal or failure to accept.

The report from the civil service board and its secretary whose long experience gives their opinions weight, is that that department never worked as well as it does to-day. I am in favor of making it still more efficient, and for that purpose I make the following recommendations: A larger force and better accommodations should be given the civil service board. Its examiners should be the best, and their salaries fixed accordingly. The appropriations for this department have been too small. With the amount available, it has been cramped to the extent of greatly impairing its value. Examinations should be held frequently and in many places. The list should be constantly recruited and all names kept off of persons who are dead or unwilling to accept employment from the State. Upon the efficiency of the civil service department depends in great measure the efficiency of every other. It should be active, competent and well managed. It is a regular department of the State, feeding all others, and unless it can properly discharge its functions it is not an aid, but an obstruction. The changes I propose will necessitate more work, which will require more money. Both are necessary to make the department what it ought to be. I am in favor of requiring one and providing the other. The suggestion has been made that the new law and rules require too many examinations. This is not a fair objection. The system is designed for the public good, and not for the comfort of individuals. The objection has no foundation even from the standpoint of the applicant, for the anxiety to hold public office is strong enough to make men undergo the inconvenience necessary to attain it. If the objection was stripped of its pretense, it would be found to consist not in reluctance at meeting the inconvenience of applying, but in aversion to taking the examination at all. Examinations are required, and no instance of evasion either by the civil service board or by any department, should be tolerated. I believe the law and the rules and the department are more efficient now than ever before. I will aid in making them still better and help to modify or abolish anything that stands in the way.[7]

ROADS.

The opinion is growing that some method must soon be adopted which will improve the country roads. The system now in general use allows the highway taxes to be paid in work. The result is poor roads, with little sign of improvement. Under the law of this State any town or county now has the right to adopt the plan of paying this tax in money. In the few cases in which the latter plan has been adopted, the result has given great satisfaction. The money system can be so pursued as to insure the expenditure of a stated amount upon each mile of road in a town, leaving a surplus to be devoted each year to the roads most in need of it. It is urged by many whose judgment and experience are valuable that the Legislature should enact a law compelling all highway taxes to be paid in money. This may finally be done. I would recommend, however, that before such law is passed, the towns and counties of the State avail themselves of their privilege under the statute, of adopting the money system. The experience thus gained will probably satisfy the farmers that the plan now in use should be abandoned.

I call special attention to this subject because the need of improvement is apparent and admitted, and because the benefits following it would be extensive. Many sections of the State, unsurpassed in beauty and fertility, are neglected and almost unknown, because the condition of the highways affording the only approach makes them difficult of access. A good road is one of the chief elements of the value of a farm. If its fertility be slight, it may still be desirable if its location and surroundings are attractive and the approaches suitable. In many parts of this country, notably in New England, farm values which had been reduced by the competition of the west, have been, in great measure, restored by the demand for summer homes. Every such community finds itself benefited to the extent of its power to attract investments from the towns and cities. Its markets are enlarged, the price of all commodities raised, railroad facilities are improved, and those changes which the expenditure of money is likely to create, are largely realized. New York has natural advantages unsurpassed by any State. Better roads will bring them more generally into view.[8]

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[7] As to civil service, see 1897, note 8, *ante*, p. 750. The appropriation bill, chapter 593 (1898) increased the appropriations for the civil service department over the amount appropriated in 1897.

TAXATION.

The laws relating to taxation in this State are inadequate. They are uniform in terms, but not in application. A law that is not uniformly applied is not just, and if no machinery can be devised to carry it into full operation, the law itself should be changed. The question of levying and collecting taxes is the most serious with which we deal. No subject reaches farther and none is more difficult of just solution. Discrimination in enforcement results not only in injustice, but often in hardship. The class for which there is the least hope of escape is the class in which generally there is the least ability to pay. Whoever else escapes, the freeholder will be caught. Sooner or later this subject must be dealt with, and the law governing it reformed. Several States are now making careful inquiries upon which subsequent legislation may be framed. This

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[8] Chapter 115, passed March 24, contained regulations for establishing a system of good roads in each county, under the general direction of the board of supervisors, which board might proceed on its own motion to designate certain highways or parts thereof for improvement under the act, and the board was required to make such designation on the presentation of a petition as authorized by the act. Provision was made for apportioning the expense between the State, the county and the town. For this act and other statutes relating to good roads, see 1890, *ante*, vol. 8, p. 1041.

State has never evaded its duty or fallen behind in fair and enlightened laws. Some agency should be created which will consider the subject with the care its gravity demands, and report to you or your successors, some scheme to correct the evil so generally acknowledged.[9]

PUBLIC EXPENDITURES.

Public money is too freely spent. This ought to be checked, and could be, if private efforts were as strenuous as public utterances. The main obstacle in the way of reduction is that it curtails the benefits which some community, class or person has heretofore enjoyed, and invariably results in protest and opposition from that particular source. Economy in the abstract excites universal enthusiasm, but abstract economy is of no value whatever. It must be applied somewhere before a gain is made, and in the process of the change from economy in general to economy in particular the passive desire for one becomes active hostility to the other. There are many ways in which every person of experience in public affairs knows that large reductions could be made without the slightest injury to the public interests. There would be a denial of benefits to individuals, but no injustice. In this connection I call attention to one particular abuse. I refer to this one, not with any intention to exclude, but rather to illustrate, others. It is the subject of public printing. The practice has long existed of printing, by thousands, public documents which have no value. They are never distributed and seldom called for. They are piled up and stored by the load, and in time disposed of at a fraction of a cent a pound for waste. Ordering without discrimination or check is vicious, with no feature to redeem it. The responsibility for printing reports or documents relating to any subject should be placed upon those having the subject in charge. No order should be given or filled except upon the certificate of those entrusted with the right to give it. In this way it will be possible to track the extravagance to some responsible head. If this were done an enormous saving could be made in this single item.

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[9] A tax revision commission was created by chapter 614, approved April 29, to consist of five members appointed by the Governor and Senate. The commission was required to submit its report to the Legislature on or before the 15th of January, 1899.

I earnestly solicit the co-operation of the Legislature upon the subject of expenditures, enjoining upon you the need of careful discrimination between those matters which extend to and are required by the general good, and those others which are demanded only for local purposes, or upon the still narrower ground of personal desire.

BIENNIAL SESSIONS.

I referred last year to the subject of biennial sessions. I refer to it again, adhering to my original belief that a session every two years could pass all the laws required by the State, greatly reduce expenses, remove the danger which increases every year from over legislation, give the laws a chance to be understood, protect those interests subject to measures known as strikes, and relieve the people from the complications and uncertainties into which excessive legislation is sure to plunge them. The wisdom of the biennial session has forced itself upon nearly all the States. Out of forty-five States thirty-nine have adopted it and in comparatively few cases where it prevails are extra sessions held. These extra sessions are sometimes called by the Governor for specific purposes, and no other can be considered. This change would involve a modification of the terms of Senators and Assemblymen. I believe the people would approve it, and in my judgment that Legislature will render a great service which takes the first step towards submitting the question to them.[10]

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[10] Concurrent resolutions were adopted at this session, proposing amendments to the Constitution providing for biennial sessions of the Legislature.

SHORT AND ACTIVE SESSION.

I shall be glad if the Legislature realizes the importance of an early adjournment. In order that this may be had, I recommend that work should begin as speedily as possible after you convene. This course is necessary in order to finish your duties at an early day. It is desirable for another reason quite as important, viz., that such legislation as you pass, may reach the Governor before adjournment. It is a mistake to pass a large number of bills near the close of a session. In the confusion of the last days, the Legislature cannot consider; it can only relax. At the adjournment on the 24th of April last, there were left for the Governor seven hundred and eighty-three bills to be examined, considered and disposed of in thirty days, including Sundays. At least a week was required to classify and arrange them, leaving about three weeks which could be devoted to their consideration. The work of the Executive under such conditions must be imperfect. If laws ought to be passed by the Legislature, they ought to be considered by the Governor. If bills are disposed of by him at the rate of forty a day, they cannot be well examined.

There should be opportunity for conference and discussion between the Executive and members of the Legislature. This will afford both a better understanding of measures proposed.

I advise that only such acts be passed as have general application. Cases are rare where the need for local or special legislation exists. A large part of our laws serve no desirable end whatever. They increase the expense, confuse existing law, and are often trivial and uncertain in their character.

Among other things the amendments proposed to fix the term of senators at four years, and of members of Assembly at two years. The annual salary of a member of the Legislature was reduced from $1,500 to $1,000 besides mileage. The plan embraced several constitutional changes made necessary by existing provisions which required annual sessions of the Legislature.

I hope the public interests will be carefully separated from those smaller interests which are sometimes so closely blended with the public that the line of separation is obscure.

I shall not be unmindful, in the discharge of my own duties, of the suggestions I have made to you.

FRANK S. BLACK.

SPECIAL MESSAGES.

January 12. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *January* 12, 1898.

"I have the honor to transmit herewith for your consideration a communication received this day from the Superintendent of Public Works and the State Engineer and Surveyor.

I approve the suggestions therein contained. The Governor cannot appoint a committee possessing the necessary powers unless authority is conferred upon him by the Legislature. I therefore recommend that such early action be taken in the matter as may be deemed proper.[11]

FRANK S. BLACK."

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[11] This message, and the accompanying request of the Superintendent of Public Works and State Engineer and Surveyor resulted in the enactment of chapter 15 on the 23d of February, providing for the creation of a canal investigating commission to be composed of not less than five nor more than seven members appointed by the Governor. The commission was required to investigate and report concerning:

"1. The work already done of enlarging and improving the Erie, Champlain and Oswego canals pursuant to the provision of chapter seventy-nine of the laws of eighteen hundred and ninety-five, and the vote of the people.

2. The contracts for such enlargement and improvement made, pursuant to said act, and whether they were properly made.

3. The amount of money actually expended for such purpose, and whether it has been properly expended.

4. The proportion of the enlargement and improvement of said canals, provided for by said act, included in such contracts and that not included therein.

ALBANY, *January* 12, 1898.

TO THE GOVERNOR.—The appropriation of nine million dollars, voted by the people at the election of 1895, for improving the canals, is insufficient to complete the work. Another large sum will be required. The authority for the second appropriation should be no less than that by which the first was made. This will require the submission of the question to popular vote. In order that such vote may be intelligently taken, the most careful examination should be made of the work already done or contracted for, and estimates prepared for that which may be necessary to complete the undertaking.

We recommend that a committee be appointed to make such examination and procure such estimates; such com-

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5. Whether any money in excess of that provided by said act, will be required to complete the enlargement and improvement of said canals in accordance with the provisions of said act, and if so what amount.

6. Such other matters in connection with the work of said enlargement and improvement of said canals as, in the judgment of the commission, are of public interest."

The report of the commission was to be submitted to the Governor not later than the 1st of June, but he was authorized to extend the time to the 1st of July. By a subsequent act, chapter 327, approved April 19, August 1, 1898, was fixed as the final date for submitting the report. The commission was appointed, made an investigation, and submitted to Governor Black its report, dated July 30. The Governor on the 3d of August transmitted the report and testimony to the Attorney General, with a request that he examine the same with a view of determining whether legal proceedings should be taken concerning any matters disclosed by the report.

Special counsel was appointed to examine the report and evidence, and on his report, recommending criminal proceedings against the State Engineer and Surveyor and the Superintendent of Public Works, Governor Black on the 30th of November, 1898, sent a communication to the Attorney General requesting him to take charge of any proceedings that might be instituted, and requiring him in person or by deputy to appear before any grand jury for that purpose.

On the 2d of December, 1898, Governor Black made an order suspending from office the Superintendent of Public Works.

Governor Roosevelt on the 28th of February, 1899, transmitted to the Assembly a report of the canal investigating commission, which according to the Assembly journal was laid on the table, and ordered printed, but it seems the report was never printed as a document. A copy of the report may be found in the State Library at Albany.

mittee to be composed of the ablest and most impartial citizens. It should contain or have power to employ, those possessed of the highest skill in such work. The advice and co-operation of the New York Chamber of Commerce, the Buffalo Chamber of Commerce and similar commercial bodies in the State might well be solicited. The value of an examination of the work already done and of an estimate of that to be performed, will depend upon the thoroughness with which they are made. In our judgment the most careful and detailed inspection should be made of the whole subject, including the work done, contracts made and parts not touched. From the report to be made thereon the people will obtain a knowledge which will enable them to act understandingly. The subject is of great importance and we hold ourselves ready to place at the disposal of such committee, a complete record of all proceedings thus far, and to aid it in every way, to the best of our ability.

GEORGE W. ALDRIDGE,
Superintendent of Public Works.
C. W. ADAMS,
State Engineer and Surveyor.

January 14. To the Assembly: Transmitting the annual reports of the New York State Woman's Relief Corps Home, Commissioner of Pilots, Adjutant General, and the State Board of Pharmacy.

January 19. To the Assembly: Transmitting the annual report of the director of the New York State Veterinary College, and the annual report of the Cooper Union.

January 25. To the Assembly: Transmitting the annual report of the Managers of the New York State School for the Blind, and the annual report of the Volunteer Life Saving Corps.

January 27. To the Assembly: Transmitting the annual report of the commissioners of quarantine, and the commission created by chapter 270 of the laws of 1888.

February 1. To the Assembly: Transmitting the annual report of pardons, reprieves and commutations.

February 16. To the Assembly: Transmitting the annual report of the State Board of Health.

March 21. To the Assembly: Transmitting the annual report of the Comptroller of the trustees of the Sailors' Snug Harbor.

March 23. To the Legislature: Certifying to the necessity of the immediate passage of an Assembly bill in relation to enrollment for political parties, primary elections, conventions and political committees, which became chapter 179. On the same day a similar certificate was transmitted as to a Senate bill on the same subject. The Assembly bill was passed.

March 25. To the Assembly: Transmitting the annual report of the State Geologist.

March 29. To the Legislature: Certifying to the necessity of the immediate passage of the supply bill, which became chapter 606.

March 29. To the Assembly: Transmitting the annual report of the New York Civil Service Commission, and the report of the New York Commission to the Negro department of the Tennessee Centennial Exposition of 1897.

March 30. To the Assembly: Transmitting the report of the commissioners representing the State of New York at the Tennessee Centennial, also the report of the Health Officer of the port of New York.

March 31. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *March* 31, 1898

"Events are now transpiring of so grave and general import, that the attention of every enlightened people is fixed upon our own. The crisis which our National Government now meets, involves those deep considerations which affect the future of the race. To aid that Government by approval and support, to sustain its hand when raised for justice and fair play, is the duty of every State. No hour has ever been so full of peril that New York has faltered while it passed. Because of her past history and her present greatness, she should be the first to understand the meaning of to-day. After long reflection, and with an earnest desire to do that which ought to be done, and to refrain from that which ought not to be done, I recommend that before you adjourn, you take such action as your wisdom shall decide upon, to provide against such urgent needs as the future may disclose.

I hope the day is still remote which shall consume the means you set apart. But if the time should come when forbearance and National self-respect can no longer stay together, there can be but one answer to the duty thus arising.

I believe you will, not in haste or anger toward any other people, but in the deliberate purpose to defend your own, and as a sign of hope to the struggling and distressed, realizing that patriotism without preparation is as fragile as a dream, so act that the enlightened sentiment of the world will justify you.[12]

FRANK S. BLACK."

March 31. To the Legislature: Certifying to the necessity of the immediate passage of an Assembly bill making appropriations for the expenses of the National Guard and naval militia when called into service, which became chapter 181.

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[12] Chapter 181, passed March 31, appropriated $1,000,000 "for the purpose of defraying the expenses of the national guard and naval militia of this State, and volunteers furnished by the State, or either of them, when called into service for the public defence on the request or requisition of the President of the United States." Payments were to be made only upon the certificate of the Governor. The act imposed a tax for the purpose of raising the amount appropriated.

March 31. To the Legislature: Certifying to the necessity of the immediate passage of an Assembly bill making appropriations for the care of the insane, which became chapter 636.

March 31. To the Legislature: Certifying to the necessity of the immediate passage of the supply bill, which became chapter 606.

March 31. To the Legislature: Certifying to the necessity of the immediate passage of the supplemental supply bill, which became chapter 607.

March 31. To the Legislature: Certifying to the necessity of the immediate passage of the tax rate bill, which became chapter 608.

March 31. The Legislature adjourned without day.

THIRTY DAY BILLS.

April 29.

Veto of a Senate bill relating to salaries of teachers in New York city.[13]

" This bill is designed to fix and regulate the salaries of teachers in the public schools of New York. Last year the Legislature passed the Greater New York Charter. One of the fundamental ideas in that instrument was local self government. It had long been the habit if not a necessity for the city to demand state legislation upon matters which should have been solely within the city's control. The new charter was framed by men of the highest eminence and skill, and they sought to correct the unwise practice I have named. Their success was considerable if not complete. It is at least certain that they succeeded in placing the subject upon which legislation is now asked wholly within the power of the city authorities. Section fifty-six of the New York Charter says that 'The municipal assembly shall have power upon the recommendation of the board of estimate and apportionment to fix the salary of any officer or person whose compensation is paid out of the city treasury.' The right to fix the pay of teachers is by section ten hundred and ninety-one, conferred in the first instance upon the school board. But the section from which I have quoted gives the board of estimate and apportionment and the municipal assembly, if in accord, the control of that subject, without regard to the board of education. There is, therefore, no reason or excuse for an application to the legislature. There is no community in the state which at this minute is more wedded to the doctrine of home rule than the city of New York. Having the power to act, the city should take the responsibility. The authorities there know the exact condition of the city's affairs, its needs and limitations, and the wishes of its people. I understand the local government believes the constitutional debt limit of the city has already been exceeded. If that is true, the city itself shall decide whether it will hazard a further increase. At all events such increase should not be arbitrarily made by the state.

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[13] An act passed in 1899, chapter 417, amended section 1091 of the New York charter, which vested in the school board power to fix teachers' salaries by adding a provision prescribing the minimum salary which could be paid in different grades, to be regulated according to the length of service, and providing a graduated increase of salaries of women principals until a salary of $2,500 was reached, and a like increase of the salaries of male principals up to $3,500.

I believe the teachers in New York are not paid as they ought to be. The plan now in use by the school board will increase these salaries and bestow some measure of long delayed justice upon the most meritorious and worst paid class of public servants. But if the teachers believe that the plan of the board of education will not deal with them fairly they should apply to the municipal assembly in which upon the recommendation of the board of estimate, ample authority now rests."

April 29.

Veto of items in the supply bill, which became chapter 606.

"First. 'And there is also appropriated for the salaries and expenses of experts, for the year eighteen hundred and ninety-eight, the sum of three thousand two hundred dollars, or so much thereof as may be necessary, the amounts herein appropriated to be paid from the funds collected from the said associations.'

This item refers to the payment of the salaries and expenses of experts for the examination of the books of incorporated racing associations. The supplemental supply bill already approved contains an item providing for the salaries and expenses of such experts and which is intended to be sufficient for that purpose.

Second. 'The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the canal fund to pay for the services and disbursements incurred by the agent employed by the Superintendent of Public Works on request of the Attorney General, as provided in section two hundred and seventy of the code of civil procedure in defense of claims against the State, on account of the canals; such sum to be advanced to said agent by the Comptroller upon his filing with the Comptroller a good and sufficient bond in the sum of ten thousand dollars for the same. But no account for such services, disbursements and expenses shall be paid until the same has been presented to and approved by the canal board.'

This is a duplication of an item in the general appropriation bill already approved, and that appropriation is deemed sufficient for the purpose indicated. The item in this bill is therefore unnecessary.

Third. 'For the Superintendent of the State Land Survey, for surveying and fixing the line between the counties of Herkimer and Lewis with the general work of the State

Land Survey, the sum of ten thousand dollars, or so much thereof as may be necessary, payable out of the appropriation of twenty-five thousand dollars to said Superintendent for continuing the work of the State Land Survey for the years eighteen hundred and ninety-eight and eighteen hundred and ninety-nine, and the said Superintendent is hereby directed to survey, establish and mark said county line.'

It seems that the location of the boundary line between the counties of Herkimer and Lewis is in dispute, and this appropriation is made for the purpose of having a line established by the Superintendent of the State Land Survey. I am informed that the boards of supervisors of the counties affected are negotiating for an amicable adjustment of the line and that the controversy will probably soon be settled. In view of this probability it does not seem necessary to expend this money now. Besides, the amount intended to be here appropriated is taken from the appropriation to the Superintendent for continuing the work of the State Land Survey. The amount appropriated for that purpose seems none too large and should not be diminished as authorized by this item.

May 2. The omnibus veto included the following bills:

Assembly bill No. 1699, entitled "An act to re-appropriate money for expenses, repairs and betterments of the state armory at Newburgh, New York, as provided for by chapter nine hundred and forty-nine of the laws of eighteen hundred and ninety-six."

Assembly bill No. 1765, entitled "An act to provide for an investigation into the causes of contagious abortion in cows and the best means of its prevention in the dairy herds of the state."

Senate bill No. 533, entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of Irving F. Cragin against the state for damages alleged to have been sustained by him, and to render judgment therefor."

Senate bill No. 919, entitled "An act to authorize the court of claims to hear, audit and determine alleged claims for military uniforms and repairs thereto, for the national guard of the state of New York, and to make an award therefor."

Senate bill No. 1094, entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of James Hall against the state for damages alleged to have been sustained by him, and to render judgment therefor."

Assembly bill No. 1416, entitled "An act conferring jurisdiction upon the state court of claims to hear, audit and determine the claims of the several counties for the value of county insane asylums."

Assembly bill No. 1734, entitled "An act to provide for a hearing of the claims of J. W. Van Slyke and others for work done and services performed for the state under the provision of chapter five hundred and seventy-seven of the laws of eighteen hundred and sixty-four."

Assembly bill No. 1747, entitled "An act to provide for the maintenance and government of the public schools of the city of Jamestown."

Assembly bill No. 1756, entitled "An act to amend chapter eighty-four of the laws of eighteen hundred and eighty-six, entitled 'An act to incorporate the city of Jamestown,' as amended by chapter one hundred and thirty-four of the laws of eighteen hundred and ninety, and further amended by chapter nine hundred and eighty-one of the laws of eighteen hundred and ninety-six, in relation to the acquisition of property for water purposes."

Senate bill No. 934, entitled "An act to incorporate the city of New Rochelle."

Assembly bill No. 1825, entitled "An act to amend chapter six hundred and thirty-five of the laws of eighteen hundred and ninety-five, entitled 'An act to revise the charter of the city of Yonkers.' "

Senate bill No. 271, entitled "An act to amend section thirteen hundred and fifty-three of chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled

'An act to unite into one municipality, under the corporate name of The City of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof,' relative to the municipal court."

Senate bill No. 1748, entitled "An act to amend chapter six hundred and eighty-two of the laws of eighteen hundred and ninety-seven, entitled 'An act for licensing and regulating bonds of auctioneers in cities of one million and over.'"

Senate bill No. 586, entitled "An act to amend section twenty-five of chapter six hundred and one of the laws of eighteen hundred and ninety-five, entitled 'An act in relation to the inferior courts of criminal jurisdiction in the city and county of New York.'"

Senate bill No. 882, entitled "An act to amend section fourteen hundred and three of chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled 'An act to unite into one municipality, under the corporate name of The City of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof,' relating to the qualifications of justices of the court of special sessions and city magistrates."

Senate bill No. 1071, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled 'An act to unite into one municipality under the corporate name of The City of New York, the various communities lying in and about New York harbor, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof,' relative to the salaries of teachers in public schools."

Assembly bill No. 421, entitled "An act relating to the payment of officers of election in the city and county of New York."

Assembly bill No. 725, entitled "An act to amend section thirteen hundred and sixty-nine of 'The Greater New York Charter,' in relation to the municipal court."

Assembly bill No. 1507, entitled "An act to amend section nine hundred and fifty-six of the code of civil procedure in reference to documentary evidence."

Assembly bill No. 1627, entitled "An act to amend section seventeen hundred and seventy-one of the code of civil procedure."

Senate bill No. 527, entitled "An act to amend sections twenty-six hundred and sixty and twenty-six hundred and sixty-nine of the code of civil procedure, relating to the grant of letters of administration."

Assembly bill No. 1015, entitled "An act to amend section twenty-eight hundred and sixty-eight of the code of civil procedure, relative to rooms in which justices' courts may be held."

Senate bill No. 591, entitled "An act to amend section thirty-two hundred and twenty-eight of the code of civil procedure relating to the awarding of costs."

Senate bill No. 1025, entitled "An act to amend the penal code, relating to the sale of poisonous substances by druggists and pharmacists upon physicians prescriptions."

Assembly bill No. 1652, entitled "An act to amend section five hundred and forty-four of the penal code relating to larceny by false pretense."

Assembly bill No. 54, entitled "An act to amend section six hundred and forty of the penal code, to prevent the desecration, mutilation or improper use of the flag of the United States, or of this state."

Assembly bill No. 1159, entitled "An act to amend section six hundred and sixteen of the code of criminal procedure, in relation to witnesses' fees."

Senate bill No. 616, entitled "An act to amend section seven hundred and seventy-three, seven hundred and seventy-four, seven hundred and seventy-seven, seven hundred and eighty and seven hundred and eighty-one of the code of criminal procedure, relating to coroners and abolishing coroners' juries."

Assembly bill No. 1632, entitled "An act to amend section nine hundred and forty-three of the code of criminal procedure, relating to the duties of county clerks, et cetera."

Assembly bill No. 1742, entitled "An act for the relief of the Mount Sinai Hospital of the city of New York, and to authorize the change of a lease from the mayor, aldermen and commonalty of the city of New York to the Mount Sinai Hospital to a grant and to authorize the sale or leasing of the said property by the Mount Sinai Hospital."

Assembly bill No. 1083, entitled "An act to incorporate 'The New York Mutual Title Insurance Company.'"

Assembly bill No. 1588, entitled "An act concerning certain corporations."

Assembly bill No. 836, entitled "An act exempting Clinton county from certain provisions of the highway law, relative to commissioners appointed for the purpose of laying out highways."

Senate bill No. 905, entitled "An act fixing the term of office of the coroner of Erie county elected at the annual election held in the year eighteen hundred and ninety-six, and providing for the election of his successor."

Senate bill No. 958, entitled "An act to amend sections two and three of chapter one hundred and seventy-three of the laws of eighteen hundred and ninety-five, entitled 'An act fixing the fiscal year, providing for a county auditor, and regulating the purchase of supplies for the county institutions and officers of the county of Erie,' passed March twenty-eighth, eighteen hundred and ninety-five, in relation to the election of county auditor in Erie county."

Senate bill No. 1142, entitled "An act in relation to the keeper of the hall of records in the county of Kings."

Senate bill No. 546, entitled "An act further to provide for the office of inspector of construction, alteration and repairs of public buildings in the county of Kings, and to define certain powers and duties."

Assembly bill No. 348, entitled "An act to regulate the practice of midwifery in Montgomery county, by others than legally authorized physicians."

Assembly bill No. 1688, entitled "An act to amend chapter three hundred and twenty-five of the laws of eighteen hundred and ninety-seven, entitled 'An act providing for a system of county roads in the county of Orange,' relating to streets and highways in cities and villages."

Assembly bill No. 42, entitled "An act to provide for the holding of annual town meetings and elections in the towns in the county of Putnam."

Assembly bill No. 1648, entitled "An act to amend chapter two hundred and sixty-eight of the laws of eighteen hundred and seventy-seven, entitled 'An act in relation to the collection of taxes and the sales of land therefor in certain towns of Queens county,' as amended by chapter two hundred and twenty-six of the laws of eighteen hundred and seventy-eight."

Assembly bill No. 1480, entitled "An act to authorize and direct the town clerks of the several towns of Westchester county, in which there is no historical society, to deliver certain books, maps and documents to the Historical Society of Westchester County."

Assembly bill No. 1481, entitled "An act to provide for indexing and reindexing conveyances, mortgages and other instruments relating to lands and liens thereon in the county of Westchester."

Senate bill No. 220, entitled "An act to amend the fisheries and forest law, in relation to powers and duties of protectors and foresters."

Assembly bill No. 1512, entitled "An act to amend chapter ten of the laws of eighteen hundred and fifty-nine, entitled 'An act to amend an act entitled "An act to revise, amend and consolidate the several acts relating to the village of Whitesborough,"' as amended by chapter five hundred and thirty-nine of the laws of eighteen hundred and eighty-four, relative to fixing the boundary lines of said village."

Senate bill No. 1736, entitled "An act to amend the fisheries, game and forest law, relating to taking sturgeon with set lines in part of the waters of the Thousand Islands."

Assembly bill No. 1624, entitled "An act to amend an act for the protection, preservation and propagation of birds, fish and wild animals in the state of New York and the different counties thereof."

Senate bill No. 737, entitled "An act to amend section fifty-two of chapter three hundred and thirty-eight, laws of eighteen hundred and ninety-three, entitled 'An act in relation to agriculture, constituting articles one, two, three, four, five, six and seven of chapter thirty-three of the general laws,' relative to cider-vinegar."

Assembly bill No. 439, entitled "An act to amend chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to counties, constituting chapter eighteen of the general laws,' relative to employment of counsel by a district attorney."

Assembly bill No. 648, entitled "An act to amend the county law, in relation to business hours in clerks' offices."

Assembly bill No. 1136, entitled "An act to amend the county law, as amended by chapters one hundred and fifty and seven hundred and eighteen of the laws of eighteen hundred and ninety-five, relating to sheriffs' office; time of keeping open."

Senate bill No. 134, entitled "An act to amend chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to the elections, constituting chapter six of the general laws,' and to add another section thereto."

Senate bill No. 608, entitled "An act to amend the election law, relating to the division and alteration in election districts."

Assembly bill No. 393, entitled "An act to amend the election law, relating to the designation of places of registry and voting in towns."

Assembly bill No. 1240, entitled "An act to amend chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, known as the election law, and entitled 'An act in relation to the elections, constituting chapter six of the general laws,' as amended by chapter three hundred and seventy-nine of the laws of eighteen hundred and ninety-seven."

Senate bill No. 817, entitled "An act to amend section fifteen of the general corporation law, relating to certificate of authority of a foreign corporation."

Assembly bill No. 1158, entitled "An act to amend chapter six hundred and eighty-seven of the laws of eighteen hundred and ninety-two, entitled 'An act to amend the general corporation law,' in relation to boards of directors."

Assembly bill No. 816, entitled "An act to amend the highway law, relative to commutations for labor on highways."

Assembly bill No. 1370, entitled "An act to amend the highway law, and the acts amendatory thereof, in relation to the pay of commissioners appointed by court to assess the damages for laying out a highway."

Assembly bill No. 1408, entitled "An act to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, entitled 'An act in relation to highways, constituting chapter nineteen of the general laws,' and the acts amendatory thereof, in reference to county roads."

Assembly bill No. 1644, entitled "An act to amend the highway law, in relation to serving notice of meeting of commissioners to determine the necessity for laying out highways and assess damages."

Senate bill No. 433, entitled "An act to amend section ninety-two of chapter six hundred and ninety of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to insurance corporations.' "

Senate bill No. 827, entitled "An act to amend the labor law, relating to the designation of deputy factory inspectors for the enforcement of provisions of such law concerning the employment of labor on public works."

Assembly bill No. 1718, entitled "An act to amend the labor law, relating to the determination of what constitutes the prevailing rate of wages to be paid to employees on public works."

Senate bill No. 604, entitled "An act to amend the lien law, relating to contracts for the conditional sale of goods and chattels."

Senate bill No. 759, entitled "An act to amend the lien law, in relation to sales of personal property to satisfy liens."

Assembly bill No. 906, entitled "An act to amend the lien law, in relation to the filing of notice."

Assembly bill No. 1498, entitled "An act to amend sections eighty-one and eighty-two of chapter four hundred and eighteen of the laws of eighteen hundred and ninety-seven, entitled 'An act in relation to liens, constituting chapter forty-nine of the general laws.' "

Senate bill No. 1027, entitled "An act to amend chapter one hundred and twelve of the laws of eighteen hundred and ninety-six, entitled 'An act in relation to the traffic in liquors, and for the taxation and regulation of the same, and to provide for local option, constituting chapter twenty-nine of the general laws,' as amended by chapter three hundred and twelve of the laws of eighteen hundred and ninety-seven."

Assembly bill No. 1057, entitled "An act to amend section ninety-five of the railroad law, chapter thirty-nine of the general laws, relative to payment of percentages by street surface railway corporations in cities."

Assembly bill No. 1278, entitled "An act to amend the railroad law, and the acts amendatory thereof, generally."

Senate bill No. 951, entitled "An act to amend the stock corporation law in relation to the alteration or extension of business."

Senate bill No. 739, entitled "An act to amend sections one hundred and fifty and one hundred and fifty-one of chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, entitled the 'tax law,' in relation to tax sales."

Assembly bill No. 916, entitled "An act to amend the town law, in relation to the qualification of assessors."

Assembly bill No. 369, entitled "An act to amend chapter four hundred and fourteen of the laws of eighteen hundred and ninety-seven, entitled 'An act in relation to villages, constituting chapter twenty-one of the general laws,' in relation to furnishing water to other municipalities."

Assembly bill No. 1267, entitled "An act to amend the village law, in relation to the population requisite to incorporate."

Senate bill No. 312, entitled "An act to mature debts owing by insolvents."

Senate bill No. 337, entitled "An act to amend chapter three hundred and seventy-one of the laws of eighteen hundred and ninety-six, entitled 'An act to authorize the issuing of licenses to honorably discharged soldiers, sailors and marines for hawking, peddling and vending of merchandise within this state,' by extending the same to volunteer firemen."

Senate bill No. 653, entitled "An act relating to rates of fare on street surface railroads overcoming an elevation of four hundred and fifty feet or more within a distance of one and a half miles or less, in villages and cities of the third class.

Senate bill No. 669, entitled "An act to amend chapter ninety-one of the laws of eighteen hundred and ninety-two, entitled 'An act to amend chapter four hundred and ninety-eight of the laws of eighteen hundred and seventy-two, entitled "An act for the protection of livery stable keepers and other persons keeping horses at livery and pasture," as amended by chapter one hundred and forty-five of the laws of eighteen hundred and eighty,' so as to create a lien upon harness, trucks and other vehicles."

Senate bill No. 1052, entitled "An act to regulate the use of bicycles, and to prevent discrimination in ordinances affecting the same."

Assembly bill No. 378, entitled "An act relating to the adult blind in cities."

Assembly bill No. 721, entitled "An act to amend chapter one hundred and ninety-four of the laws of eighteen hundred and ninety-seven, entitled 'An act creating a commissioner of jurors for each county of the state having a population of more than one hundred and fifty thousand and less than one hundred and ninety thousand, and regulating and prescribing his duties.' "

Assembly bill No. 1291, entitled "An act requiring any person, persons or association of persons doing business as private bankers in any city of the first class in this state, to file bonds for the security of certain depositors."

Assembly bill No. 1582, entitled "An act to amend chapter four hundred and ninety of the laws of eighteen hundred and eighty-five, entitled 'An act concerning tramps,' in relation to their punishment."

Assembly bill No. 1353, entitled "An act to provide for the better administration of justice in the town of Frankfort, in the county of Herkimer, and state of New York."

Senate bill No. 1090, entitled "An act to amend section six of chapter fifty-five of the laws of eighteen hundred and seventy-nine, entitled 'An act to provide for the election of a police justice in the town of Waterford, county of Saratoga.' "

Senate bill No. 1123, entitled "An act to authorize and require the town of Cortlandt, in the county of Westchester, to pay to the village of Croton-on-the-Hudson the highway tax to be collected from property within the corporate limits of said village."

Assembly bill No. 1553, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled 'An act to unite into one municipality, under the corporate name of The City of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof.' "

Assembly bill No. 1583, entitled "An act to provide for the transfer of a certain plot of land in the borough of Brooklyn, city of New York, to the Brooklyn Free Library."

Assembly bill No. 1621, entitled "An act to amend chapter six hundred and seventy-two of the laws of eighteen hundred and ninety-seven, entitled 'An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapters eighty-four and two hundred and eighty-eight of the laws of eighteen hundred and eighty-seven, and by chapter two hundred and thirty-eight of the laws of eighteen hundred and ninety-two, and by chapter five hundred and sixty-seven of the laws of eighteen hundred and ninety-five, and otherwise so as to provide for the improvement of tenements and lodging houses.' "

Assembly bill No. 1694, entitled "An act in relation to the proceeds of sale of school lands in the borough of Brooklyn, New York."

Assembly bill No. 1822, entitled "An act to amend chapter five hundred and forty-one of the laws of eighteen hundred and ninety-seven."

Senate bill No. 509, entitled "An act to authorize further appropriations for the maintenance of the American Museum of Natural History in the city of New York."

Assembly bill No. 945, entitled "An act to amend chapter one hundred and seventy-two of the laws of eighteen hundred and ninety, relating to the Brooklyn Institute of Arts and Sciences."

Assembly bill No. 1534, entitled "An act in relation to the house of worship of a religious corporation known as The Congregation Mishkan Israel Anshe Suwalker in The City of New York."

Senate bill No. 421, entitled "An act to exempt the real estate of the House of the Good Shepherd from taxation, assessment and water rates."

Senate bill No. 1081, entitled "An act in relation to Clinton avenue, in the borough of Brooklyn, in The City of New York."

Assembly bill No. 1260, entitled "An act to release from assessments heretofore made on the real estate of the Missionary Society of the Most Holy Redeemer in the state of New York."

Senate bill No. 476, entitled "An act to exempt the real estate of the Young Men's Hebrew Association from taxation, assessments and water rates."

Assembly bill No. 1434, entitled "An act authorizing municipal officers of cities of the third class to contract for the lighting of streets for a period not exceeding five years."

BILLS NOT APPROVED BY MAYORS OF CITIES.

Senate bill No. 675, entitled "An act to enable the city of Albany to pay sundry debts for printing and advertising."

Senate bill No. 434, entitled "An act to authorize and empower the board of public works and the common council of the city of Buffalo to audit, adjust and pay the claims and demands of Anthony C. Douglass, Edward J. Hingston and Arthur Woods for the actual value of all work performed and materials furnished in and about the construction of the tunnel, from the pumping station of the Buffalo city water to the inlet pier, and the extension of such pier in said city."

Senate bill No. 848, entitled "An act for the prevention of cruelty to animals, and directing the Erie County Society for the Prevention of Cruelty to Animals to do certain things."

Assembly bill No. 1224, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, relating to the vacations and leave of absence of firemen."

Assembly bill No. 1449, entitled "An act declaratory of the application of section five hundred and four of chapter one hundred and five of the laws of eighteen hundred and ninety-one."

Assembly bill No. 1749, entitled "An act to amend chapter fifty-eight of the laws of eighteen hundred and ninety, entitled 'An act to incorporate the city of Corning,' and the acts amendatory thereof and supplemental thereto."

Senate bill No. 1013, entitled "An act to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety-five, entitled 'An act to incorporate the city of Johnstown.'"

Senate bill No. 1101, entitled "An act to authorize the city of Syracuse to levy a tax to provide the means to defray the cost of constructing a bridge over the Erie canal at Bridge street in the city of Syracuse."

Assembly bill No. 1109, entitled "An act to authorize the city of Syracuse to levy a tax to provide the means to defray the cost of constructing a steel girder bridge, abutments and necessary approaches over the Erie canal, at the foot of Westcott street, in the city of Syracuse."

Senate bill No. 709, entitled "An act to amend chapter seven hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled 'An act to revise the charter of the city of Watertown.'"

Senate bill No. 1107, entitled "An act authorizing the board of police of the city of Yonkers to borrow money for the purpose of defraying the necessary expenses of the said board of police and police board."

Senate bill No. 30, entitled "An act authorizing and directing the comptroller of the city of New York to cancel of record certain taxes and assessments levied upon real property within the territory added to said city by chapter nine hundred and thirty-four of the laws of eighteen hundred and ninety-five, and issue certificates of redemption from the sales of real property within such territory."

Senate bill No. 79, entitled "An act to provide compensation to the owners of animals and cattle destroyed pursuant to chapter six hundred and seventy-four of the laws of eighteen hundred and ninety-four and repealing certain acts relating thereto in the city of New York."

Senate bill No. 192, entitled "An act to authorize the board of revision of assessments in the city of New York to determine and award damages for the changing of the original grade of streets and avenues affecting certain property located in the borough of the Bronx in the city of New York."

Senate bill No. 200, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled 'An act to unite into one municipality under the corporate name of The City of New York, the various communities lying in and about New York Harbor including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond, and part of the county of Queens, and to provide for the government thereof,' in relation to the normal college of the city of New York."

Senate bill No. 230, entitled "An act for the regulation of pharmacists and druggists and to prevent accidents and mistakes in the preparing and compounding of medical prescriptions in the city of New York."

Senate bill No. 307, entitled "An act to authorize the board of estimate and apportionment of the city of New York to audit, and the comptroller of said city to pay, the expenses of Lewis M. Hornthal, Richard Kelly, Joseph Fettretch and Jeremiah Fitzpatrick, incurred for legal services and other expenses and actions brought against them individually and as trustees of the common schools of the nineteenth ward of the city of New York by Louis M. Galligan."

Senate bill No. 340, entitled "An act to provide for the payment of the services rendered to the city of New York, after annexation, by the volunteer firemen of that portion of Westchester county annexed to the city of New York by chapter nine hundred and thirty-four of the laws of eighteen hundred and ninety-five."

Senate bill No. 439, entitled "An act in relation to the construction of an outlet sewer and appurtenants in Farragut street, from the East river to Hunt's Point road, and in Hunt's Point road from Farragut to Whittier street, and in Whittier street from Hunt's Point road to Whitlock avenue, and in Whitlock avenue from Whittier street to Westchester avenue, and in Westchester avenue from Whitlock avenue to Edgewater road, and in Edgewater road from Westchester avenue to Jennings street in the city of New York."

Senate bill No. 441, entitled "An act to repeal section eighteen hundred and twenty-four to eighteen hundred and thirty-eight of the New York consolidation act and the acts amendatory thereof relating to mechanics' liens on account of public improvements in the city of New York as constituted before taking effect of the Greater New York charter."

Senate bill No. 506, entitled "An act in relation to local improvement bonds of the late town of Gravesend."

Senate bill No. 580, entitled "An act to authorize the commissioners of the sinking fund of The City of New York to cancel and annul certain assessments and directing the comptroller to mark said assessments accordingly."

Senate bill No. 600, entitled "An act in relation to proceedings for the opening of streets and avenues and closing old roads or highways in the late city of Brooklyn commenced prior to its annexation with the city of New York, and to provide for the completion of the same."

Senate bill No. 633, entitled "An act to authorize the board of estimate and apportionment of The City of New York to examine and audit the claim of William A. Deering for advertising sale of bonds of the late city of Brooklyn."

Senate bill No. 667, entitled "An act to legalize the acts of former justices of the district courts in the city of New York, and to provide for the payment of compensation for their services, relative to municipal courts of New York city."

Senate bill No. 686, entitled "An act in relation to an assessment for the grading, construction and improvement of the westerly part of Surf Avenue in the city of New York, late town of Gravesend, Kings County."

Senate bill No. 734, entitled "An act to close and strike from the town survey map of Kings county all that portion of Sherman street lying between Vanderbilt avenue and Adams street, as the same is laid down on said map."

Senate bill No. 742, entitled "An act in relation to license fees for public exhibitions and for the payment of a part thereof to the Actors' Fund of America."

Senate bill No. 801, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' in relation to buildings in said city."

Senate bill No. 872, entitled "An act to amend chapter six hundred and seventy-one of the laws of eighteen hundred and ninety-seven, entitled 'An act to authorize the board of estimate and apportionment of the city of New York to examine the claim of Mary E. Ward, surviving partner of the firm of Warren Ward and Company, for extra work done in the enlargement and equipment of the Metropolitan Museum of Art.'"

Senate bill No. 881, entitled "An act to authorize Jeremiah P. Robinson to construct, build and maintain a bulkhead in front of his lands in the Twelfth ward of the borough of Brooklyn of The City of New York."

Senate bill No. 883, entitled "An act to authorize the board of commissioners of the sinking fund of The City of New York to transfer certain property to the Brooklyn Public Library for use as part of a free library."

Senate bill No. 889, entitled "An act to regulate the use of certain slips, piers and wharves on the East river, in The City of New York."

Senate bill No. 916, entitled "An act to provide in and for the county of Kings an additional court, not of record, for the trial of minor felonies."

Senate bill No. 936, entitled "An act relative to the bridge over the East river authorized to be constructed by chapter seven hundred and eighty-nine of the laws of eighteen hundred and ninety-five."

Senate bill No. 1057, entitled "An act in relation to certain lands owned by The City of New York in the borough of Brooklyn, known as the Wallabout lands, and the improvement, leasing and maintenance thereof."

Assembly bill No. 35, entitled "An act in relation to the opening of the highway or avenue known as Prospect avenue, in the late town of Flatbush, Kings county, formerly a part of the city of Brooklyn, now a part of the city of New York."

Assembly bill No. 57, entitled "An act authorizing the board of estimate and apportionment of the city of New York to appropriate the sum of thirty-five thousand dollars to aid in the erection of a monument to the martyrs who perished in the prison ships in New York harbor during the war of the revolution."

Assembly bill No. 248, entitled "An act in relation to the construction, maintenance and operation of railroads upon East Eighteenth street, in the borough of Brooklyn, in the city of New York."

Assembly bill No. 442, entitled "An act in relation to the construction, maintenance and operation of railroads upon East Nineteenth street in the borough of Brooklyn, in The City of New York."

Assembly bill No. 613, entitled "An act in relation to the construction, maintenance and operation of railroads upon East Fourteenth street, in the borough of Brooklyn, in the city of New York."

Assembly bill No. 698, entitled "An act to authorize the board of estimate and apportionment of The City of New York to examine and audit the claim of Fred E. Strom for services for making and furnishing maps of the Thirty-second ward of the late city of Brooklyn."

Assembly bill No. 782, entitled "An act to legalize and confirm certain appointments made in the department by the fire commissioner of the former city of Brooklyn."

Assembly bill No. 807, entitled "An act to legalize and confirm the transfer and assignment of persons serving as clerks or employees in the several municipal and public corporations consolidated by the Greater New York charter, and to provide for their compensation."

Assembly bill No. 828, entitled "An act to repeal chapter sixty-eight of the laws of eighteen hundred and ninety-seven entitled 'An act authorizing the operation of electrical conductors in The City of New York, and the construction of a subway therefor.'"

Assembly bill No. 896, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in The City of New York,' as amended by chapter seven hundred and fifty-seven of the laws of eighteen hundred and ninety-four, relating to clerks and interpreters of courts."

Assembly bill No. 1030, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled 'An act to unite into one municipality under the corporate name of The City of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond, and part of the county of Queens, and to provide for the government thereof,' relating to newspapers to be designated in which corporate notices are to be advertised."

Assembly bill No. 1031, entitled "An act authorizing the dock board of The City of New York to lease certain land and land under water for boat-house service."

Assembly bill No. 1033, entitled "An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled 'An act to unite into one municipality, under the corporate name of The City of New York, the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the count of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof.'"

Assembly bill No. 1217, entitled "An act to provide for carrying out a contract for grading a portion of West Seventeenth street, in the borough of Brooklyn, city of New York."

Assembly bill No. 1339, entitled "An act to provide for payment for the services rendered to the city of Brooklyn, in the county of Kings (now forming part of The City of New York, under and by virtue of chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven), by the volunteer firemen of the town of Flatbush, in said county of Kings, annexed to said former city of Brooklyn, by chapter three hundred and fifty-six of the laws of eighteen hundred and ninety-four."

Assembly bill No. 1342, entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests of the city of Brooklyn,' as amended by chapter four hundred and eighty-one of the laws of eighteen hundred and ninety-four, and chapter five hundred and thirty-nine of the laws of eighteen hundred and ninety-five, and chapter six hundred and forty-three of the laws of eighteen hundred and ninety-six, and chapter five hundred and thirty-one of the laws of eighteen hundred and ninety-seven, relating to the fire limits of the city of Brooklyn."

Assembly bill No. 1397, entitled "An act to authorize the improvement of Ocean avenue, in the borough of Brooklyn, in The City of New York."

1898. JULY. EXTRAORDINARY SESSION.

July 5. The Governor issued a proclamation convening the Legislature in extraordinary session on the 11th inst.

July 11. The Legislature convened in extraordinary session in accordance with the proclamation of the Governor, who on the same day transmitted to it the following

MESSAGE:

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *July* 11, 1898.

TO THE LEGISLATURE OF NEW YORK.—Unusual events have made it necessary to convene the Legislature in extra session. There are three subjects which demand attention, and I recommend them for legislative action.

First.—An appropriation to meet the expense of providing New York's share of the troops required in the war with Spain.[14]

Second.—A plan to enable voters absent from their homes in military service to vote at coming elections.[15]

Third.—A provision which will better protect citizens who would vote according to law, and more certainly prevent and punish those who would vote otherwise.[16]

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[14] Chapter 672, approved July 16, extended the provisions of the foregoing act, chapter 181 (see note 12) passed at the regular session, by appropriating $500,000 for the same purpose, and for the additional purpose of "defraying the expenses including the purchase of uniforms, arms and equipments connected with enlistments to replace organizations or parts thereof of the National Guard, or members thereof which have or may become a part of the army of the United States, under any call for troops heretofore or hereafter issued by the President, or for the formation of new organizations of the national guard, or of the reserve militia of the State." Like the first act this statute required the Governor's certificate of authority for making payments from the amount appropriated. The comptroller was authorized to borrow on bonds the amount needed under this act, or under chapter 181. Amounts, if any, which might be received from the government of the United States in reimbursement of State expenses under either of these acts were to be applied exclusively to the payment of such bonds or to the sinking fund created for the payment thereof.

[15] Chapter 674, passed July 16, provided for taking the vote of soldiers and sailors absent in the military or naval service of the United States in time of war, and prescribed regulations for taking the vote, making the returns, and canvassing the result. The act appropriated $20,000 for the purpose of carrying it into effect. See Const. 1894, art. 2, § 1.

[16] Chapter 675, approved July 16, revised section 12 of the election law of 1896, chapter 909, relative to election boards in cities, including provisions, some of them new, intended more effectually to secure bi-partisan representation in such boards.

Before the adjournment in March, the Legislature appropriated $1,000,000 to meet a contingency which it was hoped would never happen. Since then New York has put in the field 16,000 men, at an expense of $960,593.72. There is an unexpended balance of $39,506.28. A large part of the money paid out will be returned by the general government, but not in time to be available for present use. This expenditure has sent to service the best drilled, best equipped and best prepared troops that any State has furnished. The purposes for which the appropriation has been expended appear in the Adjutant-General's statement, which I submit herewith. Such expenditures are given in detail on the books of the Adjutant-General's department, to which books I refer.

The justice of providing for the soldier's vote is clear. There will be in the field, when the present call is completed, about 20,000 of the male citizens of New York. Most of them are voters. They have responded with such promptness and courage as to evoke the highest praise from the government at Washington, and from the loyal citizens of the whole country, regardless of State limits. In November there may be in the field more or less than now, but in the natural order of things, however speedily the war may end, some at least will be absent. Every honorable sentiment demands that the right of the soldier be recognized by the State whose fame he has preserved and extended.

The last subject which I have recommended is no less just or important than the other two. There are laws now designed to protect honest votes, and suppress those that are fraudulent, but none except the unintelligent or the unfair maintain that these laws are always effective. Perhaps no law can produce an absolutely clean result, but until that result is as honest as law can make it, the subject will never be closed. The overwhelming majority of the people of this State, of all political faiths, believe in and will maintain a clean electoral franchise, but ever since men have dealt together, corruption has been extant and the time and means of the vast majority have been incessantly employed in attempts to confine the small minority within the restraints of law. There is no direction in which law breakers have been so defiant and successful as against the right of suffrage. The heat of political controversy has too often excused where it should have condemned. A temporary triumph has sometimes been gained at the cost of integrity, and the process has been ignored. No government can long endure which does not check and punish this highest of all forms of treason. Other offenses compared with it are small and insignificant. An honest franchise lies at the bottom of all governmental stability. You will enact laws in vain against theft and pillage, if the greatest evil, a corrupted franchise, goes uncleansed. It will profit little to save the veins if the arteries are cut. It is far too common to make election crimes of the fall, public jests in the following spring. Honest, thoughtful citizens of this State see in recent events in New York city, a threatened repetition of practices which have on more than one occasion defrauded and disgraced the State.

When instruments are needed they are selected because of fitness for the end desired. This is true whether that end be honorable or base; and when recently in New York city the power to control elections was vested in one whose prominence rested upon notorious violations of the election law, the conclusion followed that the selection was made to repeat the infamous practices which had tarnished his previous career. High official station, accompanied with great power, has been there bestowed upon one whose name has had with election and other crimes the closest association. This increase of power, with no suggestion of increased fitness or integrity, has aroused the conservative citizens of every party to demand that the ballot be preserved from hands that hitherto have smirched it. The power to do this is vested in the Legislature. The duty to exercise that power cannot be evaded or denied. The authority rests with the Legislature of this State, but the demand comes from honest citizenship the country over.

Police control may be a subject for local regulation. What a community will do with and for itself, it alone should decide as long as that decision does not affect others nor transgress the bounds of decency and good morals. The general powers of the police in New York city should not now be interfered with. That body should be left as it is until the demonstration of its unfitness is again repeated and complete. But the question of an honest ballot is neither local or State; it is national, and broader even than that, for it affects and controls as no other issue does, the integrity of citizenship, which has no limit. The national aspect of this question has in recent years received a signal declaration. The presidency has often turned upon the vote of New York, and within the memory of young men that high office has been once bestowed through the dishonor of the franchise in a single community in this State. The question thus presented cannot, therefore, be narrowed to a local significance, nor confined by the restraints of party affiliation. It is as broad as the whole country, and it is to the citizen, not to the partisan, that its appeal is made. By no false issue should that appeal be stifled or obscured. It antagonizes no sound doctrine and transgresses no precept of fair play. No honest man can suffer nor justly complain of a violated right.

There are many who say, perhaps some who believe, that unless this question is dealt with by each community, right or wrong, the principle of home rule is offended. Even this contention, utterly without significance in the face of the greater issue, is not true. Home rule means only the right of the community to deal in its own way with matters pertaining to it, provided its method of dealing is in accord with the Constitution, the law, and the rights of the people at large. No community shall commit a crime, even though done on its own territory. No man shall counterfeit or forge, even though he does it in his own cellar. The doctrine of home rule protects one case as well as the other, and is equally shocked by each. No city shall debauch the franchise and relieve itself from restraint by claiming that the fraud was done at home. The effect of a crime does not stay where it was done nor affect the perpetrator alone. It spreads and contaminates, and its boundaries cannot be fixed. As well might one claim the right to poison the source of a river because that source was on his land. The plea of home rule will shield him against those on the course of the stream below as well as the same plea will shield those who poison in one spot, the franchise which is co-extensive with the republic.

The citizens of Plattsburgh or Watertown have the same right to demand an honest vote in New York city that they have to demand it at home, for in a general election the fraudulent vote destroys the power of an honest one, whether in the same box with it or in one three hundred miles away. Home rule is, in a small way, the doctrine of State rights, and has no greater scope. It is a privilege allowed by all to one, and cannot be used by that one to defraud the others. Within the limits intended by the Constitution it is a wise and salutary doctrine, but when it goes beyond the Constitution, beyond the laws, and protects the individual in outraging the multitude, it should be brought to the ground.

The same class which sees or claims to see in an effective election law, the violation of home rule, will also see the image of a force bill in every attempt to protect the franchise. This claim should neither mislead nor deter. Every law against crime is a force bill. There is one against murder, arson and theft. The law upon either of those subjects would be at once amended if the amendment would improve it. No protest would be raised or heeded if it was, and yet there are perhaps as many who at heart oppose a force bill against larceny as there are those who oppose a force bill against election crimes. The reason why one protest is silent and the other uttered, is because public sentiment condemns one and listens to the other. Those who profit by an evil will raise false alarms to distract the public mind while they repeat the dangerous advantage. And yet, of the two crimes, theft is the milder and less to be feared. One is a crime against property, the other against liberty. One can be measured and the damage fixed; the other has no limit and may shatter the foundation on which all property rights depend. No society is safe which fails to recognize the magnitude of this evil or refuses to cut it out. It is the great danger threatening the country to-day. If any community can not or will not prevent it, the State should. When local authorities, clothed with a duty closely touching the welfare of the whole State, ignore or connive at its violation, the State itself should intervene. It should not permit its 7,000,000 of people to be defrauded at the polls by the few thousand who make of corruption either a pastime or an occupation. By meeting this subject with justice and determination, the State will perform a most solemn and imperative duty, and crush out an evil which has brought upon it injury and shame. The responsibility for a law against crime is not upon those who make it, but upon those who make it necessary.

An honest election is not a political question. It is not against a political party, if all parties are honest. It is only against a class, the most degraded and dangerous by which society is menaced. If any political party or members of it have received or expect benefits from this class, they will condemn as a force bill any law which restricts the infamous trade in which that class engages. The State should be for the law and against the criminals. Individuals and parties should take whichever side their interests point out, and they should be forced to take it in public.

I have only one reluctance in proposing new legislation, and that arises from the necessity for increased expense. But New York should respond to the President's call. Her absent soldiers should vote, and when those votes return they should be protected sacredly. No cost is too great, necessary to these ends. All legislation involves expense. The State expends millions of dollars every year for its various purposes. There is not in all this vast expenditure, one subject whose influence is so paramount and clear as the electoral franchise. The country is in greater danger from an abuse of this franchise than from the war with Spain. All other subjects depend for their success and even for their continuance, upon an honest vote. Any expenditure, therefore, which surrounds that vote with additional shields should be promptly made. But in this, no large expense need be incurred. A comparatively small number, determined, backed by a just law, can accomplish much in the way of prevention. By prevention the law should be fulfilled, for its sole purpose should be to stop the commission of crime.

This question should be dealt with upon the broad lines of equal citizenship. No partisan advantage should be sought or allowed. Fair play is a rule which honest men cheerfully observe, others should be forced to observe it.

Legislation should be so framed that any man who attacks it must accuse himself. In all elections, where one of two great parties must prevail, bipartisanship is the basic principle, because there the right to control is established, and in the process of establishing it every man who has a right to participate has a right to be represented. This principle of bipartisanship, recognized by the Constitution,[c] should be incorporated in the law. Wherever one party is represented, both should be, by precisely the same number in precisely the same way. The law upon this subject should be confined strictly to the conduct of elections, and the preliminary steps which culminate on election day. Legislation affecting any existing police force, except as to its duties in connection with registration and election, and offenses against them, I distinctly decline to recommend.

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[c] Const. 1894, art. 2, § 6.

I know you will keep in view a reasonable economy, and yet remember that an honest election must be had at any price. That you will act in the full determination to be just to the whole people, and yet remember that justice will be but poorly done if you do not so provide that the votes of hundreds of brave men, now suffering in the trenches, shall not be destroyed by the crimes of one degenerate who has remained at home.

I submit to you the three questions I have named, with full confidence in your wisdom.

FRANK S. BLACK.

SPECIAL MESSAGES.

July 13. To the Legislature: Certifying to the necessity of the immediate passage of a bill making appropriations for the military of the State, which became chapter 672.

July 14. To the Legislature:

"EXECUTIVE CHAMBER,
ALBANY, *July* 14, 1898.

I recommend to your consideration the following subjects:

First.—An appropriation sufficient to pay in full the expenses of the extra session of the legislature.[17]

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[17] Chapter 673, approved July 16, appropriated $15,000 for the expenses of the extraordinary session.

Second.— The creation of a Metropolitan elections district having a state superintendent therein, with prescribed powers and duties.[18]

Third.— Bi-partisan representation on local election boards, which representation shall be based upon the recommendation of political parties or the committees thereof, (See note 16.)

FRANK S. BLACK."

July 14. To the Legislature: Certifying to the necessity of the immediate passage of a bill to create a Metropolitan elections district, which became chapter 676.

July 15. To the Legislature: Certifying to the necessity of the immediate passage of a bill making appropriations for the expenses of the extraordinary session, which became chapter 673.

July 15. To the Legislature: Certifying to the necessity of the immediate passage of a bill to amend the election law, relative to the appointment and qualifications of election officers in cities, which became chapter 675.

July 15. To the Legislature: Certifying to the necessity of the immediate passage of a bill to provide for voting by absent soldiers. The bill was amended, and this certificate therefore became ineffectual.

July 16. To the Legislature: Certifying to the necessity of the immediate passage of the amended bill to provide for voting by absent soldiers, which became chapter 674.

July 16. To the Senate:

"EXECUTIVE CHAMBER,
ALBANY, *July* 16, 1898.

I recommend to your consideration the subject of the nomination and appointment of a state superintendent of elections for the Metropolitan elections district.

FRANK S. BLACK."

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[18] Chapter 676, approved July 16, created the Metropolitan Elections district, provided for the appointment of a superintendent therein, and prescribed his powers and duties. The district embraced the counties of New York, Kings, Queens, Richmond and Westchester.

On the same day the Governor sent to the Senate the nomination of John McCullough, to be State superintendent of elections for the Metropolitan Elections district. The nomination was immediately confirmed.

July 16. The extraordinary session adjourned without day.

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